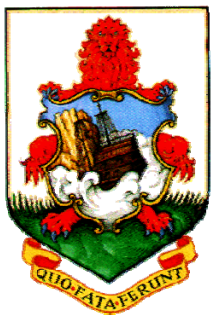

2009/10 SESSION
of the
BERMUDA
HOUSE OF ASSEMBLY

OFFICIAL HANSARD REPORT
2 –23 July 2010 (pages 575–1060)

Hon. Stanley W. Lowe, OBE, JP, MP
Speaker

Disclaimer: The electronic version of the *Official Hansard Report* is for informational purposes only. The printed version remains the official record.

BERMUDA HOUSE OF ASSEMBLY

OFFICIAL HANSARD REPORT
2 JULY 2010
10:00 AM

Sitting Number 27 of the 2009/10 Session

[Hon. Stanley Lowe, Speaker, in the Chair]

PRAYERS

[Prayers read by Hon. Stanley Lowe, Speaker]

CONFIRMATION OF MINUTES
18 JUNE 2010

The Speaker: The Minutes of the 18th of June have been circulated, and Honourable Members should find them on their desks. Minutes of the 25th are being deferred. Is there any objection to the Minutes of June 18?

[Motion carried: 18 June 2010 Minutes confirmed]

MESSAGES FROM THE GOVERNOR

The Speaker: There are none.

ANNOUNCEMENTS BY THE SPEAKER OR MEMBER PRESIDING

RULING RELATING TO REMARKS BY HON. D. V. BURGESS

[Standing Order 19(11)(d)]

The Speaker: I just wish to make the following announcement: Representation was made to me on Thursday the 24th of June by the Leader of the Opposition and the Honourable and Learned Member, Trevor Moniz, concerning the heated exchange that took place in the House on the Motion to Adjourn by Minister D. Burgess. However, upon reflection, I am of the opinion that Standing Order 19(11)(d) was contravened relating to the remark "Cut your nonsense out, boy."

However, the tone of debate did not rise to the level of requiring censure or reprimand. However, I do encourage all Members to exercise restraint when speaking during debate and be as statesmanlike as possible—*and be as statesmanlike as possible.*

The House has always entertained passionate and exuberate debate. But I do remind all Honourable Members to observe, in particular, Standing Order 19, as this is a part of the provisional orders that are being used by the House at this time.

This is my ruling. And I now consider that matter closed.

APOLOGIES

The Speaker: We have received confirmation from the Honourable Member, Dr. Gibbons, from Paget East, and the Honourable Member, Mr. D. Tucker, from Hamilton South, indicating that they will not be in attendance at the House today.

Before I move on, I just wish to add my thanks again to Mr. Dominique Johns for filling in as Sergeant-at-Arms for the last two Fridays. We do thank him for the job that he did. I thought he was on cue. Thank you, Mister . . . he is not in. I thought he was in the Chamber. But anyhow, we do thank him for it.

MESSAGES FROM THE SENATE

The Speaker: There are none.

PAPERS AND OTHER COMMUNICATIONS TO THE HOUSE

The Speaker: I recognise the Honourable Member, Mr. Premier.

Mr. Premier has the floor.

CIVIL AIRPORT (AMENDMENT OF SCHEDULE) ORDER 2010

Dr. the Hon. Ewart Frederick Brown: Good morning, Mr. Speaker.

I have the honour to attach and submit for the consideration of the Honourable House of Assembly the Civil Airport (Amendment of Schedule) Order, 2010, proposed to be made by the Minister responsible for Tourism and Transport, proposed to be made under the provision of section 1(2) of the Civil Airports Act, 1949.

The Speaker: Thank you, Mr. Premier.

I now recognise the Honourable and Learned Member from Devonshire North West, Minister P. Cox.

Minister Cox, you have the floor.

NATIONAL PENSION SCHEME (FINANCIAL HARDSHIP) REGULATIONS 2010

Hon. Paula A. Cox: Thank you, sir.

I have the honour to attach and submit for the consideration of the Honourable House of Assembly the National Pension Scheme (Financial Hardship) Regulations, 2010, proposed to be made by the Minister responsible for Finance under the provision of sections 24 and 69 of the National Pension Scheme Occupational Pensions Act 1998.

Thank you, sir.

The Speaker: Thank you, Minister Cox.

Are there any further communications to the House?

We will move on.

PETITIONS

The Speaker: There are none.

STATEMENTS BY MINISTERS

INITIAL BILATERAL MEETING WITH PARLIAMENTARY UNDER-SECRETARY OF STATE

The Speaker: I recognise the Honourable Member Mr. Premier.

Mr. Premier has the floor.

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Speaker.

Honourable Members will have become aware of my recent meetings in London with the new Minister responsible for Bermuda appointed in this new UK Coalition Government. Mr. Speaker, he is Henry Bellingham, MP, a Conservative Member of Parliament who has a career in foreign affairs. Our meeting was warm and more than cordial. The Minister opened with remarks of congratulations and thanks to Bermuda for its continued sound financial services regulatory framework and for our consistent compliance with international best practice in this important sector.

Mr. Bellingham emphasised that this Government's prompt response to the adoption of international sanctions, antiterrorists, and anti-money-laundering regulations was appreciated by the UK Government and stood them in good stead in the international community.

I took the opportunity of this bilateral discussion to advise the Minister of the much-improved working relationship between this Government and Government House in the area of law enforcement. We both remarked on the successes that the Bermuda Police Service had realised of late and agreed that it remained critical to evidence tangible support for the police and their fight against crime and antisocial behaviour.

Mr. Speaker, Mr. Bellingham demonstrated a sound grasp of this Government's position on the importance of the Aircraft Register to this economy and indicated his support for our prudent management of the register and his Government's support as a result of that fact.

My tenure has been marked by what appeared to be a revolving door of appointments within the Foreign and Commonwealth Office. We had Triesman, Munn, Merron and Bryant in so short a period of time that it was impossible to forge the relationship necessary to working well. This Minister was sensitive to this fact and, insofar as he is able, undertook to ensure that this new Government demonstrates higher regard for the remaining Overseas Territories.

This was an encouraging meeting that was set against the backdrop of the Minister's opening statement that committed to "a grown-up relationship" with Bermuda. Mr. Bellingham reiterated the British Government's view that for as long as Territories were content to be a part of "the Family," they would be treated as such and valued, and that when, by the manifest will of the people, a Territory chose ultimate self-determination, that too would be supported by the UK Government and respected.

For some years now, I have attempted to mitigate the December Arctic-trek to the annual Overseas Territories Consultative Council in London. While it will not apply to me, Mr. Speaker, I am confident that this Minister will take on board my recommendation that a Territory host the OTCC every other year.

Mr. Bellingham was gracious in his welcome, fulsome in his praise of Bermuda, and keenly interested in our issues. I am pleased to have laid the foundation for a new, meaningful working relationship for Bermuda with this Minister.

In addition to this important bilateral meeting, I also met with officials from the UK Department of Transport to discuss our Aircraft Register. The Director of Civil Aviation, Mr. Thomas Dunstan, accompanied me. And we were pleased to note that these transport officials echo the confidence in our operation expressed by the Minister.

Mr. Speaker, Honourable Members may wonder how these meetings were possible. After all, I left Bermuda on Wednesday night, arrived in London on Thursday morning, and was back in this Honourable House by Friday at lunchtime. As I kept this punishing schedule, I wished that the framers of the usual Parliamentary Questions and their "gotcha-journalists" were tagging along. As a result, Mr. Haywood's comments in yesterday's *Bottom Line* magazine about "ministers travelling in luxury" smacked of something other than economic concern.

In any event, Mr. Speaker, from the 15 hours spent on British soil, I am pleased to advise this Honourable House that a fresh relationship with the British Government has been commenced, and this Government's Aircraft Register is safer and recognised as a well-managed asset to this economy.

Thank you, Mr. Speaker.

[1]RESPONSE TO STATEMENTS MADE AT PUBLIC ACCOUNTS COMMITTEE PUBLIC MEETING OF 1 JULY 2010

Dr. the Hon. Ewart Frederick Brown: Mr. Speaker, this is the second statement.

Honourable Members are no doubt aware that yesterday the Public Accounts Committee of this Honourable House held its first public meeting. That is something about which we should all be proud.

However, as we use this public vehicle we should be cautious that we tell truths, that we talk about things about which we have facts, and not seek to injure, malign, infer or state things about which we have no knowledge in order to make nefarious political points.

I refer, Mr. Speaker, to comments made in today's daily to the effect that Mr. Don Coleman is a long-time friend of mine, and to specific comments made by the Honourable Member, Mr. Richards, to the effect that Tourism went with my "old buddy" in awarding a contract.

Let me state clearly here that Mr. Coleman is not an "old buddy" of mine or a long-time friend. I met Mr. Coleman because he was introduced to me as a major force in the advertising industry, as the owner of one of the largest award-winning multicultural ad agencies in the world. This was only as recently as 2004 or 2005. I did not go to college with Mr. Coleman, and only met him in his professional capacity, believe it or not. However, since that time, I have come to admire him and his firm for the fine work that they have done for us and for others.

I was particularly chagrined to read a quote from my honourable colleague, Mr. Richards, to the effect of, "You could have had the best advertising brains in the entire Madison Avenue. Why wasn't that done?" I take from that quote that the Honourable Member does not find it plausible that the best advertising brains can be found in a firm like Global Hue. That is tragic and probably goes to the heart of many matters here, Mr. Speaker. If you are not the biggest known on Madison Avenue, you cannot have brains? Mr. Coleman happens to be a black gentleman who owns a very successful ad agency that has done excellent work for Bermuda's Department of Tourism.

I find it ironic, Mr. Speaker, that certain members of the Opposition never fail to malign companies doing business with this Government that are owned by blacks or that are owned by whites who are friends of this Government. That is very tragic, Mr. Speaker.

I must state again that I am pleased—I am pleased—that the Public Accounts Committee will now hold its meetings in public. However, we must be cautious with our Parliamentary privilege. We must speak the truth, and we must be careful not to stereotype what people can or cannot do based on their ethnicity or size.

In conclusion, Mr. Speaker, I and others in the Government are often accused of playing the race card. Mr. Speaker, what is hardly ever discussed is the fact that there is no need to play the race card; it is already in play and so are its devastating effects. The Honourable Member, Mr. Richards's, comments are clear evidence of it.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Premier.

I did allow the statement to be made, but that is a matter that really should be dealt with on the Motion to Adjourn. Statements are really about Government policy, Government management, and not that kind of thing. However, I did allow it.

Are there any further Ministerial Statements?

I recognise the Honourable Member, Minister D. Butterfield.

Minister Butterfield, from Pembroke West Central, has the floor.

CULTURE UNWRAPPED

Hon. D. Neletha I. Butterfield: Thank you, Mr. Speaker.

I rise this morning to inform my honourable colleagues and the people of Bermuda about a brand-new and significant event created purposefully for Bermuda's youth by the Department of Community and Cultural Affairs. Mr. Speaker, on Saturday, July 10th, 2010, from 12:00 noon until 6:00 pm the Culture Unwrapped: Youth Culture Festival will be held on top of the Bull's Head parking lot in the city of Hamilton. This event is free to the public.

The Youth Culture Festival aims to connect young people with the organisations and groups that exist to support them, while simultaneously exposing our youth to exciting workshops and activities they may not have seen before.

Mr. Speaker, a fully functional urban playground will be assembled with ramps and jumps; and workshops on BMX, skateboard, and free running will be taught throughout the day. All activities are geared towards engaging the bodies and minds of Bermuda's youths and sharing the wealth of healthy, active, alternative outlets.

Mr. Speaker, workshops will also be provided in D-jaying, V-jaying, airbrushing, and graffiti art to provide avenues to encourage positive expression in the form of modern audiovisual art styles.

Mr. Speaker, a youth village will be established for this event, where youth groups and organisations will gather united in their commitment to young people. These organisations will be present throughout the day to offer training, counselling, and informa-

[1] Also see reply by PAC Chairman, page 635

tion advice on resources for parents and community groups.

Mr. Speaker, during the course of the festival, video interviews will be conducted about the needs of young people, providing an opportunity for them to speak out and be heard. This will provide valuable insight into their needs and how we can better provide outlets for them as a Ministry and as a community.

Mr. Speaker, the Youth Culture Festival is a pilot programme that is the brainchild of Mr. Adrian Kawaley Lathan, within the Department of Community and Cultural Affairs. That department also plans to expand this initiative in the future. This event, including the workshops and special feature attractions, as stated, are free. As I stated before, they are free to the public and are intended for people of all ages to enjoy. We hope that many members of the public will take advantage of exploring this unique event.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister Butterfield.

Are there any further Ministerial Statements?

We will move on.

REPORTS OF COMMITTEES

The Speaker: There are none.

QUESTION PERIOD

The Speaker: We are now into Question Period.

I am going to recognise the Honourable Member, Mr. C. Swan, from Southampton West Central.

QUESTION ON CULTURE UNWRAPPED

Mr. Charles F. B. Swan: Thank you, Mr. Speaker, and good morning.

I just have two questions, and they are for the Minister of Cultural Affairs, who just sat down.

I just wondered if the Minister could provide us with the amount of the budget for the event that is coming up on July 10th. And also, if it is a one-off or if it is planned to be yearly.

Thank you, Mr. Speaker.

The Speaker: Minister Butterfield is going to respond.

Hon. D. Neletha I. Butterfield: Yes. The Honourable Member is asking for a budget, and I am trying to think, what is his interest in it? The budget comes up here every year. Why should we now provide a budget for something separate? So, I decline to do that.

[Inaudible interjections]

The Speaker: Further questions?

Mr. Charles F. B. Swan: Well, there were two questions there, Mr. Speaker. One was if there was a budget for the event, if the Minister could provide the amount of the budget; and the second question was if it was planned to be a one-off event or a yearly event.

The Speaker: Minister Butterfield.

Hon. D. Neletha I. Butterfield: Mr. Speaker, as stated in my Ministerial Statement, I did say it is a pilot programme. And should this initiative be successful, we will continue it.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister.

The Leader of the Opposition, Mr. Swan, from St. George's West, has a question.

QUESTION ON INITIAL BILATERAL MEETING WITH PARLIAMENTARY UNDER-SECRETARY OF STATE

Hon. Hubert (Kim) E. Swan: Yes, Mr. Speaker.

I have a question of the Premier with regard to his meeting with Mr. Henry Bellingham. In the statement, it references the UK Department of Transport and to discuss our Aircraft Register.

Can the Premier please provide some details of what was said, in specific, about our Aircraft Register?

The Speaker: The Premier is going to respond.

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Speaker.

Mr. Speaker, I actually had the meeting with the Minister first and then with the Director to make sure that the Minister and the Director were on the same page. So often, that does not happen in Government, as we all know. But other than what I have said, Mr. Speaker, I have not had the opportunity to meet with the staff of DCA. The Director has not met with his people. And I think that what I offered was sufficient to give the Honourable Member an understanding of what we talked about.

The issues raised were essentially the same issues raised here in this House. So there was nothing new.

The Speaker: Thank you, Mr. Premier.

We will move on.

CONGRATULATORY AND/OR OBITUARY SPEECHES

The Speaker: I am going to take the Honourable Member, Ms. L. Foggo, from St. David.

Government Whip Ms. Foggo has the floor.

Ms. Lovitta F. Foggo: Thank you, Mr. Speaker.

I would just like to congratulate the graduating Class of 2010 at CedarBridge Academy. There were approximately 113 students who graduated. I think it was something like at least 80 of them received 75 per cent or over, and 70 per cent of that graduating class has been accepted into colleges and universities overseas, as well as the Bermuda College here.

I would like to associate the Minister of Education with these remarks, and, yes, I would like to say, a job well done for the Ministry of Education. Those types of statistics are phenomenal. And you do not find in a graduating class across the globe where 70 per cent or more are continuing their education at a tertiary level. So those stats speak volumes, Mr. Speaker.

And I would like to say many of those graduates received scholarships from schools like Dalhousie and other renowned institutions overseas. Yes, some of the schools were McGill University, Boston College, Dalhousie, I think it was the University of Pennsylvania. These are first-class institutions of learning, Mr. Speaker. So it speaks volumes for what we are doing here in Bermuda in the Ministry of Education and for our young Bermudians.

Thank you, Mr. Speaker.

The Speaker: Thank you, Ms. Foggo.

I am going to take the Honourable Member, Mrs. Gordon-Pamplin, from Paget West.

[Inaudible interjection]

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Speaker.

Mr. Speaker, I would ask that this Honourable House send congratulations to the Adult Education School, who also held its commencement exercises in the earlier part of the week. In particular, the valedictorian, a young man who had actually come through CedarBridge, who was literally . . . the only way to describe it in layman's terms is the best of the best. He was Kai Wallace-Meyer. And, Mr. Speaker, if you heard the accolades that this young man was able to achieve during his period of time at the Adult Education School, one would only marvel at the success that he has been able to enjoy.

The interesting thing about that particular commencement exercise is that a significant number of the awardees in every category, whether it be just for the term within the school, or, in fact, throughout the GED programme Island-wide, a significant number of them were male. And it just did my heart good, Mr. Speaker, to see these young men parade across the stage, and the director saying, *Wait a minute. Don't go too far. Come back, because you get the next award. And don't go too far, you get the next award.*

There were awards in writing and reading, science, math and English. Mr. Speaker, they were absolutely extraordinary . . .to see the successes that these young people were able to have. And the directors of the Adult Education School need to be congratulated for the effort that they have put into the development of these young people and for a job very well done.

Thank you, Mr. Speaker.

The Speaker: Thank you, Ms. Gordon-Pamplin.

I am going to take the Honourable Member, Mr. D. Butler, from Warwick North East.

Mr. Butler has the floor.

Hon. Dale D. Butler: Thank you, Mr. Speaker.

Before I even get started, everybody wishes to be associated with the remarks asking the House to send condolences to a gentleman who was one of the key cornerstones in Warwick when it came to the organisation and development of the Progressive Labour Party. I joined the Party at the age of 16, Mr. Speaker, because of the stalwart, hardworking visionaries like Charles Bean, Walter Robinson, Wilfred Allen and Mary Haywood.

In addition to that, there were Naurice Lawson Costerfield Bean. Not only was he a hardworking gentleman in Warwick, a taxi driver; but he also joined BELCO during the time of that strike. And Mr. Bean always had not only his parish at heart, but the whole country. Many of the issues, as Dr. Erskine Simmons gave the eulogy, as he spoke about parochial issues becoming national issues, that was a measure of the man that Mr. Bean was.

And so, Mr. Speaker, all Members of the House would like to be associated with the condolences that I am asking to be sent.

In addition to that, I ask that the House send condolences to Austin Leon Socky Wade, footballer, bowler, to his family.

[Inaudible interjections and laughter]

Hon. Dale D. Butler: Yes. The entire House wishes to be associated, given his outstanding contribution to labour in this country. Thank you.

The Speaker: Thank you, Minister Butler.

I am going to take the Honourable and Learned Member, Mr. J. Barritt, from Devonshire South Central.

Mr. Barritt has the floor.

Mr. John Barritt: Thank you, Mr. Speaker.

I would ask that this Honourable House, for yourself, send a letter of congratulations, and encouragement as well, to the Principal, Mrs. Valerie Williams, and teachers at Victor Scott School, in particular the Educational Therapist, Mrs. Wendisha Phillips,

for doing what they are doing in terms of trying to have a summer programme for children there at Victor Scott.

Having learned at the end of May that they were not going to have funds from the Government to continue this programme, what they have done, Mr. Speaker, is put together a proposal, gone out, done fund-raising to keep this programme going for the needs of 45 students who really do need this programme. And I think that, Mr. Speaker, deserves a letter of commendation and congratulations.

They have even said if it comes to it, they are going to work without pay in order to make sure that things are done, Mr. Speaker. And that warrants, in my view, a letter of congratulations and encouragement.

Thank you, Mr. Speaker.

[Desk thumping]

The Speaker: Thank you, Mr. Barritt.

I am going to take the Honourable Member, Minister D. Butterfield, from Pembroke West Central.

Hon. D. Neletha I. Butterfield: Thank you, Mr. Speaker.

I rise to give congratulations to the graduating class of Berkeley Institute this year, 2010. And the reason why I am very excited about that, if you will recall, Mr. Speaker, when the new Berkeley Institute opened, I was the Minister of Education at that time. So, it is very wonderful to see some of those individuals that I had met during that time when I was there.

I also want to give special recognition to Jason Jackson, if you recall that name, a member of Youth Parliament, a very excited young man. He was very excited to even get his certificates, Mr. Speaker. One of the other highlights was to see our very own Clerk of the House, Ms. Shernette Wolffe, give out an award. And I think if we all play our part in helping individuals . . . I thought that was very good in celebration of her 50th birthday, through her reading club, Four to Fit [PHONETIC], during the graduation, her alma mater, to give out that award.

So I want congratulations to go to them. And also, I would like to be associated with those remarks given to the Class of 2010 at the Adult Education School.

Thank you, Mr. Speaker.

The Speaker: I am going to take the Honourable Member, Mr. T. Lister, who has been trying to catch my eye, from Sandys South.

Mr. Lister has the floor.

Hon. Terry E. Lister: Thank you, Mr. Speaker.

I want to be associated with the remarks given thus far.

Today I want to bring congratulations to an outstanding civil servant, Major Kenneth Dill, better known as Tokey Dill [PHONETIC], who has just recently completed 40 years of service to this Government.

[Desk thumping]

Hon. Terry E. Lister: We will recall that Major Dill began his public career as the Bandmaster for the Bermuda Regiment. And during that time he raised it to a very high standard, which has been continued to this very day. From there, Mr. Dill went on to take over the band responsibility at the Berkeley Institute, where he produced probably the finest band in school history during his time.

Mr. Speaker, you will recall that when this Government came into power, Mr. Dill was the head or the Executive Officer of the Human Rights Commission, a position he had held for some 13 years, since which he has gone on to become the head of the Civil Service, where he continues fine service to the country. And I think we should all rise together and congratulate him for what he has been able to accomplish in that very long period of service.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Lister.

I now recognise the Honourable Member, Mr. C. Swan, from Southampton West Central.

Mr. Swan has the floor.

Mr. Charles F. B. Swan: Thank you, Mr. Speaker.

I rise to be associated with the congratulations to the graduating class at CedarBridge Academy, and also those graduates from the Adult Education School. One cannot attend all of these ceremonies, but I did manage to attend the Berkeley Class of 2010 Graduation Ceremonies, so I would like to be associated with those congratulations, Mr. Speaker.

And I am sure that I will associate the Leader of the Opposition, Mr. Swan, and my colleague, Mr. Cole Simons, and Grant Gibbons as well. And on the other side, the Honourable Member, Dame Jennifer, was also in attendance.

Mr. Speaker, I think congratulations do need to go out to this graduating class at Berkeley, given the fact of the newly opened school, and they have been through a trying period. I think the Board of Governors under Mr. Bridgewater, and, of course, the Headmistress, Mistress Simmons, do need to be commended.

Mr. Speaker, I would also like to extend congratulations—and it is something a little bit, I imagine, out of the ordinary. And it is involving the decision-making process that one has to make in life, I guess. And I do not know if this is the right thing to do or not. But I would just like to commend Mr. Shannon Adderley, one of the members of the group Bermudians

Against the Draft, who has made the decision now to join the Bermuda Regiment.

This group has been active for a long time with its cause, and Mr. Adderley has been at the forefront of it. I know all individuals are faced with decisions of rights over responsibilities. And so I just commend Mr. Adderley for his ability to make the decision that works best for him.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Swan.

Any further speakers?

I am going to take the Honourable Member, Mr. K. Horton, Southampton West.

Mr. Horton has the floor.

Hon. K. H. Randolph Horton: Good morning, Mr. Speaker, and thank you.

First I would like to associate myself with the remarks by the Honourable Member, Terry Lister, in regard to Kenneth Dill and the outstanding service that he has provided in the Civil Service. I have had the great opportunity of working with him in more than one Ministry that I worked with, and he is certainly a civil servant to be looked at in the most positive way.

Mr. Speaker, I would also like to ask that this House send congratulations to a young man. His name is Reuben Bean. Reuben Bean is a young man of incredible linkage. He is the son of Quentin Bean, and he is the grandson of the late Charles Bean, who was a Senator in this country.

Mr. Speaker, I want to congratulate Reuben for opening a new Jujitsu Martial Arts, Fitness, and National Healing Centre on Monday, June the 28th. Mr. Speaker, at times like this I think the opening of this facility has incredible value, in light of the fact of the importance of wellness in our community, and also in the importance of safety and security in our community. He will run programmes for tiny tots in martial arts, youth martial arts, family safe programmes, adult karate classes. And then there is a 10-lesson self-defence course for members to participate in. And then on the wellness side, there are fitness, wellness and sculpting programmes. And there is also a Blue Sun Alchemical Healing Centre.

Mr. Speaker, I take my hat off to this young man and, certainly also—I never can let this go by—he is a former student of the great Warwick Secondary School.

The Speaker: Thank you, Mr. Horton.

Any further speakers?

I now recognise the Honourable Member, Mr. H. Swan, Leader of the Opposition, from St. George's West.

Mr. Swan has the floor.

Hon. Hubert (Kim) E. Swan: Thank you, Mr. Speaker.

I would like to be associated with the remarks being sent to the Berkeley Institute and CedarBridge Adult Education on the graduations that were recently held. As my honourable colleague, the Honourable Member Mr. Swan, did state, I had the privilege of being in attendance at the Berkeley graduation, which was a very inspiring occasion. And I was certainly pleased to be there, and wish all those well.

I was encouraged by the number of students—the majority of which have chosen to continue on with their education. A number of students are going overseas, but the lion's share will be going up to the Bermuda College, which is a great learning institution. And we wish them well, Mr. Speaker, because a great deal of attention is always placed . . . more attention is placed on persons who choose to go overseas, but you can certainly get a quality start to your education here in Bermuda. And we want to certainly wish those students well.

Mr. Speaker, I would like to send congratulations out to the Doers Club, Mr. Coolridge Bell, who a couple of weeks ago held an event at Camden Grounds where they honoured some of our outstanding sports persons: Mr. Horton, Mr. Skipper Ingham, Mrs. Ursula Dunlop for all that she has done in majorettes. And I was hoping Mr. Horton could help me out, there was one other person with regards to the Gombeys as well.

Hon. K. H. Randolph Horton: Mr. Spence.

Hon. Hubert (Kim) E. Swan: And Mr. Spence. Thank you, Mr. Horton.

Mr. Spence, for all that he has done in his community and helped, indeed, Mr. Coolridge Bell, who was well known in addition to being a footballer, but also a member of the Gombeys.

And finally, Mr. Speaker, I would like for a suitable letter to be sent to Mr. Shine Hayward. The Premier and I had the honour of being there to help open his new club on 91 Reed Street called Shine's. And I associate the Honourable Member, Mr. Perinchief, with that.

Mr. Shine Hayward is well known in our community in regards to, not only his love of music, but his profession in music, in teaching young people the discipline and the art of music. And today he and his children have gone into business together in order to provide a quality entertainment centre for people to enjoy music and fellowship.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Swan, Leader of the Opposition.

I now recognise the Honourable Member from St. George's North, Dame Jennifer Smith.

Dame Jennifer has the floor.

Hon. Dame Jennifer Smith: Thank you, Mr. Speaker.

I certainly wish to be associated with all of the congratulations given to the various graduates today. In particular, I wish to mention Aisha Mussenden [PHONETIC] of the Berkeley Institute, who received the Dame Jennifer Smith "Still I Rise Award" for Significant Improvement.

I also wish to be associated with the congratulations given to Mr. Wendell Shine Hayward.

And, Mr. Speaker, I ask that the House join with me in sending congratulations to the 23 students travelling onboard *Spirit of Bermuda*, which left yesterday on its way to Jamestown, Virginia, in a sailing expedition that is commemorating the 400th anniversary of the sailing of the *Deliverance* and the *Patience* to Jamestown.

[Inaudible interjection]

Hon. Dame Jennifer Smith: Yes, I am associating—who is that, Mr. Swan? Mr. Charles Swan?

Mr. Charles F. B. Swan: Yes.

Hon. Dame Jennifer Smith: Yes. It fortified tourism. And, Mr. Speaker, God willing, I will be in Jamestown when they arrive.

Mr. Speaker, I also wish to ask that congratulations be sent to Bermuda Hospital's Charitable Trust and the Bermuda Red Cross on their Wednesday night Pump It Up event. Let me say that some parliamentarians were represented, Mr. Speaker, by way of Senators Walton Brown and Thaao Dill. It is unfortunate that the highest fund-raiser, Richard Lightowler, was the one who got injured in racing in his high heels. All of the men who participated, which included Dr. Thomas and Dr. Boonstra and Scott Pearman and Gary Moreno and a number of men—highly placed men—who participated to raise funds for those most worthy organisations.

Thank you, Mr. Speaker.

The Speaker: Thank you, Dame Jennifer.

Any further speakers?

I now recognise the Honourable Member, Mr. G. Blakeney.

Minister Blakeney from Devonshire North Central has the floor.

Minister?

Hon. Glenn A. Blakeney: Thank you, Mr. Speaker. Thank you. Good morning.

I would like to be associated with the congratulatory wishes extended to Mr. Wendell Shine Hayward and his children, Nadanja and Nishanthi (who is actually the godchild of my wife), on the successful opening of their new nightclub business. Wendell, of course, is an icon in music in Bermuda locally and just recently worked on the Bermuda Project, something that I was involved with and will be working on, and has worked on a subsequent project as well.

I believe that the endeavour of Mr. Hayward is to provide a platform for local musicians to showcase their incredible talents in a very conducive atmosphere, and so I wish him and Nadanja and Nishanthi every continued success, and would like those same comments conveyed to him and both Nadanja and Nishanthi. Thank you.

The Speaker: Thank you, Minister Blakeney.

Any further speakers?

We will move on.

MATTERS OF PRIVILEGE

The Speaker: There are none.

PERSONAL EXPLANATIONS

The Speaker: There are none.

NOTICE OF MOTIONS FOR THE ADJOURNMENT OF THE HOUSE ON MATTERS OF URGENT PUBLIC IMPORTANCE

The Speaker: There are none.

INTRODUCTION OF BILLS

The Speaker: I recognise the Honourable Member, D. Burgess.

Minister Burgess, from Hamilton East, has the floor.

WEST END DEVELOPMENT CORPORATION AMENDMENT ACT 2010

Hon. Derrick V. Burgess, Sr.: Thank you, Mr. Speaker.

I am introducing this Bill which seeks to add approximately 61.1 acres of land, mostly land covered by water, to the scheduled area described in the Third Schedule of the Wedco Act 1982. The name of the Bill is the West End Development Corporation Amendment Act 2010.

The Speaker: Set down on the Orders of the Day for next week?

Hon. Derrick V. Burgess, Sr.: Yes.

The Speaker: Thank you, Minister Burgess.

I now recognise the Honourable and Learned Member, Minister P. Cox, from Devonshire North West.

Minister Cox has the floor.

INSURANCE COMPANIES (SPECIAL FEES) ACT 2010

Hon. Paula A. Cox: Thank you, Mr. Speaker.

I am introducing the Bill entitled the Insurance Companies (Special Fees) Act, 2010. And this Bill is for consideration of the Honourable House, and it seeks to introduce a special levy on Class 4 insurance companies to cover the cost of enhanced supervisory standards.

Mr. Speaker, also, I believe on behalf of the Honourable Minister for Justice, who is not in the House today, there is a Bill that is to be introduced. And I believe that Bill, Mr. Speaker, is the Justice Protection Act, 2010.

The Speaker: Thank you, Minister Cox.

I recognise the Honourable Member Mr. W. Roban from Pembroke East.

Minister Roban has the floor.

POLICE AND CRIMINAL EVIDENCE AMENDMENT (NO. 2) ACT 2010

Hon. Walter H. Roban: Thank you, Mr. Speaker.

I wish to table on behalf of the Honourable Minister, M. J. Scott, the Police and Criminal Evidence Amendment (No. 2) Act, 2010. I am introducing this Bill for consideration of the Honourable House of Assembly.

Mr. Speaker, I have another Bill to introduce. May I do so?

The Speaker: Yes.

JUSTICE PROTECTION ACT 2010

Hon. Walter H. Roban: On behalf of the Honourable Minister, Michael J. Scott, I introduce the Justice Protection Act, 2010. I am introducing this Bill for consideration of the Honourable House. This Bill seeks to establish a programme to give protection to witnesses and various other persons, and to make way for co-operation between Bermuda and certain Territories.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister.

They are all set down as an Order for the next day of meeting.

Any further introduction of Bills?

We will move on.

NOTICES OF MOTIONS

The Speaker: There are none.

ORDERS OF THE DAY

The Speaker: That brings us to the Orders of the Day.

Just before we call the first Order, I just wish to welcome back to Bermuda young Mr. Kenneth Minors, who has just recently returned from the Czech Republic. I am sure he has had a very interesting experience. And he could not resist being with us this morning.

Welcome, Kenneth!

The Speaker: Now, I have been informed by the Government Whip that the Government wishes to change the Order Paper. Rather than me calling all those Orders, let us go straight to the . . . because I understand the Opposition have been informed.

Order Number 10. It is Consideration of Draft Order entitled the Traffic Offences Procedure Act, 1974, Specified Penalties Amendment Notice, 2010, Order Number 10, the Traffic Offences Procedure Act.

I now recognise the Honourable Member Mr. Premier.

Mr. Premier has the floor.

CONSIDERATION OF DRAFT ORDER ENTITLED TRAFFIC OFFENCES PROCEDURE ACT 1974 SPECIFIED PENALTIES AMENDMENT NOTICE 2010

Dr. the Hon. Ewart Frederick Brown: Mr. Speaker, thank you very much, and thank you for your indulgence.

Mr. Speaker, the Notice before the House today seeks to amend the Traffic Offences Procedure Act, 1974, Specified Penalties Amendment Notice, 2010, which makes it a "ticketable" offence for persons under the age of 18 years to carry a pillion passenger and to ride an auxiliary bicycle between 1:00 am and 5:00 am.

The Notice also creates a new section in the Motor Car (Construction, Equipment, and Use) Regulations and the Auxiliary Bicycles (Construction, Equipment, and Use) Regulations, making it an offence to use a cellular telephone while riding or driving, and increases the penalty with respect to tint or film affixed to the windscreen of a vehicle.

Mr. Speaker, the Bermuda Youth Licence elements of the Notice are housekeeping matters. The good news, however, is that the police report general compliance among Bermuda's young people with regard to the no-towing rule. With this amendment, the Police can now issue tickets to young offenders on the spot.

The new offence under this Notice is that associated with persons using handheld mobile telephones and other devices such as Blackberries, I-pods, computers, or any other gadget while riding or driving.

Honourable Members will note that in 2009 a working group composed of members from the Attor-

ney General's Chambers, the Bermuda Police Service, the Transport Control Department, Magistrate's Court, as well as the Centre for Alcohol and Drug Abuse proposed a series of holistic measures to reduce the number of road traffic accidents and loss of life on Bermuda's roads.

During the working group's deliberations, the use of cellular phones or similar technologies such as Blackberries, I-pods, pagers, and PDA's while operating motor vehicles was considered, and it was proposed that the use of such devices while driving should be banned. This proposal was based on the premise that the primary responsibility of the driver is to operate a motor vehicle safely; use of a cellular phone while driving results in inattention.

Statistics from the Bermuda Police Service indicate that inattention, which includes distracted drivers, was one of the major causes of accidents on our roads. The police traffic records indicate that there are in excess of 500 accidents owing to inattention each year. As of May 2010, this number stood at 261.

Mr. Speaker, I acknowledge that cell phone usage while driving is only one of many distractions, and there is no specific data to suggest that it is the cause of all of the accidents categorised in the police traffic records. However, there is evidence to suggest that such usage is a contributing factor in some cases.

In fact, a University of Utah study suggested that cell-phone usage while driving was just as unsafe as driving drunk. The study, which was a simulated study, showed that cell-phone-using drivers have a slower reaction time. They took 9 per cent longer time to hit the brakes and were 19 per cent slower to resume a normal driving speed after brake application. They also showed 24 per cent more variation in the distance at which they followed other vehicles. These impaired reaction times make drivers who are talking on the phone more likely to get into an accident. Three people in the study actually rear-ended the pace car they were supposed to be following in driving simulations.

It is not surprising, therefore, that a review of other jurisdictions by the Road Safety Council, in co-operation with the Transport Control Department, showed that 24 of the 50 states in the United States, as well as Canada, the UK, and New Zealand, have either banned, partially banned, or are currently debating a ban on handheld devices while driving.

It is believed that by introducing specific distracted driving legislation, such as the Notice before the House today, the overall level of traffic safety on our roads will improve. The objective of the policy to prohibit drivers from using their cell phones and other entertainment devices while driving is to increase driver attention and decrease road traffic accidents.

Mr. Speaker, with respect to the increased penalty for tinted windscreens, this too is a driver distraction deemed unsafe. Further, the use of dark-tinted windows is also considered a security risk and an obstruction to the police in the execution of their duties. Therefore, the penalty for this offence will increase considerably to serve as a further deterrent to offenders.

With these brief remarks, I now invite other Members of the House to participate.

Thank you.

The Speaker: Thank you, Mr. Premier.

I now recognise the Honourable Member, Mr. H. Swan, from St. George's West, Leader of the Opposition.

Mr. Swan has the floor.

Hon. Hubert (Kim) E. Swan: Yes, Mr. Speaker.

Thank you, Honourable Premier, for bringing the Traffic Offences Procedures Act Specified Penalties forward here. Certainly, with the prolific road deaths that we have and the number of accidents, to have legislation come forward gives us the opportunity to say in this House that, you know, from a legislative point, we are doing some things. And, indeed, inattention is an important item to address.

But, Mr. Speaker, the one area in road safety that we really need to make sure that we do pay more attention to is the drunk driving, particularly during weekend periods, on Friday nights late, early Saturday mornings, when persons are not using, necessarily, their cell phone, but are driving under the influence of alcohol and other substances, going at high speeds and doing so in a manner that is threatening to other people on the roads and people walking. Even people who live on the side of the roads are not necessarily safe. And there are certain areas that have frequent accidents. But that can attest to how frightening it is for them, early hours of the morning.

And there is legislation on our books that we need to pay attention to to make sure that we are doing more to deal with some of the problems that are causing—that are really causing the deaths and the accidents that we already know, Mr. Speaker. And certainly, as it comes to the need for maybe having checkpoints where we can change the mindset—and certainly this legislation is a mechanism that is a mindset changer. There are two schools of thought in Bermuda as to whether or not cell phones cause accidents, Mr. Speaker, because maybe not sufficient enough data are available. But I know, certainly from a personal standpoint of view, that the mindset needs to be changed to make us more attentive, as attentive as we absolutely can be in order to make our roads safe.

Because the one accident where you might hit someone because you are not paying attention—a child at a crossing or someone walking, when you veer off—is the one that we do not want to have happen. So from that regard, Mr. Speaker, we need to be mindful.

Mr. Speaker, in regard to this legislation as it refers to the penalties for tinting of windscreens, maybe the Premier and Minister can share with us whether or not the Government has looked into or done studies on the tinting of the visors on helmets, which are of great concern. I have been stopped by any number of people in the community to talk about these tinted facemasks on helmets, which conceal the identify of persons. Notwithstanding the same reasons that were outlined that was necessary for this to be made present for the windscreens of cars, is that a number of crimes with guns and the like are committed by persons who choose to use tinted windscreens on their helmets to shield their identity.

Mr. Speaker, maybe the Premier also, with his wide knowledge with regard to GPS and the amount of attention that might be required as someone is driving along to be able to look at that device, whether or not that was considered as well or is being considered, as to whether or not the attention spans of drivers using that falls in this category as well.

And, Mr. Speaker, as we are certainly in need to ensure that we have empirical evidence on our roads, how many studies are we conducting annually with regard to the different scenarios that exist on our roads, whether or not it be at late night to justify the need for us to have checkpoints to change the mindset of people who set out to consume? Maybe if we can put in place such measures to let people know that at 10 o'clock or at 11 o'clock, or at 1 o'clock in the morning, at certain points heading east or heading west, that they know that the likelihood is that they will be checked, they will make plans to have someone else drive them or take a taxi.

You know, not saying that you cannot have some fun, but know that there are consequences for being in a state where you cannot be as attentive. And certainly, the inattention caused by impaired driving—I know the Premier stated that in some jurisdictions, they were saying that that person is far more attentive than the person that is using the cell phone; that could be correct because you are not looking where you are going. But the person who is under the influence, Mr. Speaker, is going, and they feel like . . . hey, they are in a different frame of mind, a different state, and a different place. And they just go, go, and they do go.

And so, Mr. Speaker, with those remarks, I will let someone else weigh in on this. Thank you.

The Speaker: Thank you, Mr. Swan, Leader of the Opposition.

I now recognise the Honourable Member, Mr. M. Pettingill, from Warwick West.

Mr. Pettingill, you have the floor.

Mr. Mark Pettingill: Thank you, Mr. Speaker.

First of all, we have to be in full support of any and all measures that are taken with regard to addressing the problems that we have with driving and with fatalities and injuries on our roads. One has to bear in mind that, despite the fact that we have the headlines and the great debates with regard to an increase in violent crimes and murders and so on, that still the leading cause of death, of tragic death and of young people, especially, in this country, it is in the road and traffic accidents. So the more we do to address this, I think the better we will be.

And I do not think we need to spend a lot of money on having studies to be concerned about what the problems are. They are pretty obvious. If one looks at the statistics with regard to fatalities, a good 90 per cent of the time they will take place late at night, and the forensic reports, the toxicology reports will indicate that the victims or the persons involved in the accidents that lead to fatalities have consumed too much alcohol or been under the influence of drugs. So those are the facts that we have. So anything that we are doing in relation to addressing that is commendable.

One of the things that I have put forward in the past and one of the things that I think we need to consider is almost a zero tolerance when it comes to drunk driving. By that, I mean that there is some penalty with regard to being assessed as having had any alcohol and getting behind the wheel of a car. They do that in other jurisdictions by having handheld devices on the side of the road. When you do get stopped, you are asked to blow into a monitor, and that reads out if you have had anything to drink at all, and you are subject to some penalty. They do that in many of the European countries, Sweden. I myself was subject to such a test in Germany—which I passed, of course—at the last World Cup.

But the fact of the matter is that I was stopped and subject at a roadblock test to having to blow into the monitor. And their limit, Mr. Speaker, was 0.5. Where ours is 0.8 here, it was 0.5. And if you were over that, then you found yourself in a spot of trouble. And I think that that is the way that we can proceed going forward.

Again, I emphasise it is the use of technology that will assist us. It is a proactive approach to a problem, having that roadside type of testing. So I understand we may be considering heading down that way. Skip the money on the report and put it into the devices, is the way that we would want to go.

I also have to say, jumping up and down, I am always happy to see, as I have now, you know, a 12-year-old at home and a 10-year-old who seems to be more keen about talking to save for her bike. And I have already put that to bed and said, *Don't even be thinking about it.* But somehow it is in her head. It is, with young people. Every time I see something come along that is addressing young people with any provision with regard to bikes, I am jumping up and down. When the age limit went up, I was happy. When you talk about them not riding on the back of bikes . . . and of course, I remember all of this because I was 16

once. So, I do not want them doing and behaving in some of the ways that I did. And the roads are more dangerous today, you know, just the nature of the traffic; we have more of it.

So I am always applauding anything that comes out. They might not like it. I am sure they do not like us when these things come along. But I do not care. So I am always very happy and support fully the fact that we are passing provisions that are addressing the fact that younger drivers tend not to be as careful, not to be as experienced, they have problems. It is more difficult to be towing someone. People take risks. Young people, especially, will tend to be a little bit more show-offy when they have got somebody on their back or they have girls on the back.

We all know this because we were all on the front of those Mobylettes in days gone by. But my friends in the House may also remember that we used to have to peddle up the hills on our bikes on some of those. It was not quite as bad as it is now, where you have some of these 50 cc . . . and I think we had great respect, Mr. Speaker, the nickname, the colloquial term for some of those bikes are called *crotch rockets* because, you know, they are small-frame bikes. People sit on them and go super-fast because that is the nature of the bike.

So whatever we are doing to address that, we all have to support that. It is the way to go.

Certainly with regard to inattention and cell phone use, I think I probably read the same reports, or some of them, that the Honourable Premier has read. There are, in fact, reports that clearly indicate that cell phone use is the equivalent to drunk driving.

And the fact of the matter is—and I'll put my hand up not to be hypocritical—I am at fault, as I am sure many of us are, for being on the cell phone at times in the car. I recently went out and bought a device. Well, I had one device in the car that I recently sold, which was a hands-free device. It is easy to use. They are voice activated. They are not that expensive, actually. The one that I just bought, Mr. Speaker, at Target in the US cost less than $10, to plug into your radio.

So people should be aware when they are travelling, that you can get these devices that you stick into your radio for less than 10 bucks.

[Inaudible interjection]

Mr. Mark Pettingill: No, no. I am going to buy some now, though.

So that type of thing, Mr. Speaker, it is not a huge, onerous thing to purchase a device if you must talk. And I find, unfortunately—and I am sure that many Members of this House are like this—that travel time is time to use and it is quite useful sometimes to be able to talk in the car, even if you look a bit crazy when people see you at a light talking to yourself, as they cannot see that you are on the phone. But who cares? If you get the device, I'm sure that some entrepreneurial people here in Bermuda will now be saying like, *Right. Let us get some of those devices in.* They are $10 in the States—they will probably be $400 here, but it is what it is. Buy Bermuda! So make use of those because you may, in fact, save a life with regard to that. So that is what people should be looking at in order to do this, is to get one of those non-handheld devices.

Now, the only . . . and I do not want to say *criticism*, but just doing my job as being, you know, a legal eye, I guess, and looking at it . . . the provision on Regulation 45 causes me some concern with regard to a conflict of laws, Mr. Speaker. And I confess, I will consider before we get to a Committee stage—oh, no, there is no Committee on this. Well, then, quite right. The Government may want to take it under advisement in looking at this before it goes further. I think that Regulation 45 may cause some conflict of law with regard to GPS provision. And if it does not—I hear the Honourable Member saying no. But if it is worked out, it is worked out. When I looked at it, I went *ding, ding, ding* because the wording is "a person driving or causing or allowing any other person to drive a car equipped with a monitor or other television, computer, or other device with a display screen"—

[Inaudible interjection]

Mr. Mark Pettingill: It does. The Honourable Premier has informed me that it speaks to exceptions; I accept that. I gather than the GPS, then, is one of the exceptions, and that is in the Act. That apparently is contained within the Act. So, I think that is probably the answer to all the taxi drivers that may be raising that question, because it was raised with me. And I said that I would look at that. I did not have time to look at it this morning before we spoke, but I will. I will give you a call next time.

[Laughter]

Mr. Mark Pettingill: Hey, sometimes you have got to think on your feet, and sometimes you get answers on your feet, which is fine as well. I accept that. So, for all those that are listening, there is your answer. There are exceptions that are contained within the legislation with regard to GPS use in taxi driving that does not create (and I gather that is what is being said) a conflict with regard to this particular provision.

So, with that being said, Mr. Speaker, of course, we have to lay our support behind this. And I am hoping that we are going to be seeing more of these coming to the House, perhaps along the lines that I suggested with regard to the other types of devices that are available in addressing the drunk driving issue. I think that would really lead us down a very good path.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Pettingill, the Honourable and Learned Member from Warwick West.

I am going to take the Honourable Member, Mr. K. Horton, from Southampton West.

Mr. Horton has the floor.

Hon. K. H. Randolph Horton: Good morning. Thank you, Mr. Speaker.

All of us in this world know about the incredible speed of Usain Bolt. Usain Bolt is the 100-metre, the 200-metre champion in the world, fastest human being. And I think it is because of his speed that we were able . . . I do not know whether other Members have seen. But there is an ad, a television ad that shows Usain Bolt running a 100-metre dash, texting all the way from the start to the finish. And he goes through the finish line without stepping outside of the lanes.

But that would be fine, Mr. Speaker, if we could transfer that to driving on the roads. There is no way. You know, it has been clear, Mr. Speaker, in the United States. The Insurance Institute for Highway Safety, in fact has indicated the fact that states in the United States—there are 28 states, plus Washington, DC, that have enacted laws against text messaging.

And just why is it so important to stop text messaging? All of us in the House, I am sure . . . I heard the Honourable Member, who just took his seat, say that he had used texting. But I think probably all of us—I cannot speak for everyone, but I know certainly I have texted and driven. And I have learned a big lesson. I am so happy that the time that I lost—not lost control, but did not have full control, certainly—there was no big issue. But certainly, Mr. Speaker, text messaging and driving is profoundly dangerous on the roads. And there are studies in the United States, in fact, that I know of that have indicated just that.

What is important for all to understand about text messaging . . . in fact, when we look at distraction and we look at distractions when we are driving a car—and there are distractions—we could say that there are visual distractions, there are manual distractions, and there are cognitive distractions. And text messaging incurs all of those distractions—visual, manual, and cognitive. And as a result, Mr. Speaker, if we are text messaging, we are losing control of how we are handling the car.

I think it is important to note, too, that the human body, the average speed—or not even the average speed . . . you are saying Bolt runs at 27 miles an hour in order to achieve his record. But in the real world, most of us average about 15 miles an hour. So, therefore, our bodies, Mr. Speaker, are built to be able to react to things that are within 15 miles an hour. So anything above 15 miles an hour means to say that they are an added distraction. And so, indeed, in Bermuda we have a speed limit of 30 miles an hour. (Is it 30 miles an hour, Mr. Premier?)

The Speaker: Thirty-five kilometres, I think it is.

Dr. the Hon. Ewart Frederick Brown: Thirty-five kilometres.

Hon. K. H. Randolph Horton: We have a speed limit of 35 kilometres. And so, Mr. Speaker, if one is driving even at the speed limit in Bermuda and is texting, then they are losing control. They are unable to have the control that is necessary in order to fully be able to respond to what is happening on the road.

So, Mr. Speaker, I stand here in full support of this Regulation Amendment Notice. I stand in full support of what is being done in this case because I am well aware, and certainly most Bermudians are aware, of the dangers associated with text messaging.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Horton.

I am going to take the Honourable and Learned Member, Mr. J. Barritt, Devonshire South Central.

Mr. Barritt has the floor.

Mr. John Barritt: Thank you, Mr. Speaker.

In light of comments and questions that I have had in Parliament, it will come as no surprise that I am in full support of today's move, Mr. Speaker, as indeed my Party is, and all Members appear to be.

But there are a couple of questions and comments that I have that I would like to make. And I noted that the Premier, who is also the Minister of Transport, explained that this Amendment Notice is going to make a number of offences, including the use of the cell phone, a ticketable offence, which means that a summons can be issued and a person given the ticket. I believe they can pay their fine without necessarily going to court, Mr. Speaker. And that is what we are doing here today. And that goes to procedure.

The question, or the issue to which I wish to speak, is, well, when and where do we create the penalty? Now, I believe (the Premier can speak to this when he gets to his reply) that there was published in the *Bermuda Sun* this week, the Government *Gazette* portion of the *Bermuda Sun*, a number of regulations which I believe can be done under both the Auxiliary Bicycles Act and the Motorcar Act, by way of the negative resolution procedure.

And I think, for those Members who have not, and for the public, when you read what we are doing here today in light of those regulations, you get some sense, or a better sense, of what is happening.

For instance, the Honourable and Learned Member Mr. Pettingill raised that query about whether or not GPS would be captured, the system would be captured as an offence under the Regulation as we read it on the particular Notice we have in front of us. And the Premier pointed out that that will not be the

case, and the reason that will not be the case (the Premier was not able to say across the floor of the House, obviously) is that regulations that are going to make this an offence provide for exemptions.

And as I read the Regulation, Mr. Speaker, in the *Gazette* on Wednesday, the *Bermuda Sun,* the *Gazette* portion of the *Bermuda Sun,* was that the GPS navigation system is exempt, as is a logistical transportation tracking system device, for commercial purposes, to track vehicle location, driver status, or the delivery of packages or other goods (I suppose that covers FedEx and others like that); a collision avoidance system device that has no other function that to deliver a collision avoidance system (with which I am not familiar; I do not know where that comes from); and an instrument display screen that is used to provide information to the driver regarding the status of various systems of the motor vehicle system. I presume that is a new feature that we may see in cars coming online, where, on the dashboard, this sort of information is going to be readily available.

And then I noticed the general exemption, which is that the use of handheld mobile telephones and other handheld devices will not apply to the drivers of ambulances, fire-fighting vehicles, or police vehicles. And I read that as being under the exemption.

Now, I do not know which comes first, Mr. Speaker. It is a bit like the chicken and the egg. Are the regulations now going to come into effect? Do they become law before the offences' penalties procedures do? I am not quite sure. Because when I saw the regulations in the Government *Gazette* on Wednesday I was a little puzzled because I recall that we have legislation in front of us. And, as you know, Mr. Speaker (you make the point often enough), one has to do the enabling legislation first before you can do the rest. And I expect, and the Premier can speak to this as to whether or not the regulations as they appear in the Government *Gazette* on Wednesday are in fact the regulations that will come into force and effect, when will they come into force and effect? And then, will the Traffic Penalties (Amendment) Notice that we are putting in place, do they come into effect after that? It is just a procedural or a timing point, Mr. Speaker, to which the Premier can speak.

He might also speak to this, Mr. Speaker. And it is something that concerns me. I see that we are making it a ticketable offence, punishable by a fine. And the fine will be . . . is it $500? I think I am correct in that—which is a fairly steep amount, Mr. Speaker, which gives indication how serious it is. But my concern on this is, I hope this does not go the way of parking offences. And that is, sometimes when it comes to the collection of fines—and we know this to be the case with summons that are issued for parking offences—people pretty well ignore them. And we have had a real build-up in terms of fines that have been levied by summonses. *Millions* was the last report from the Auditor General that are not collected.

So it makes it all a bit of a hollow exercise, if you have a big fine, but you do not have in place the system, the actual infrastructure whereby these fines are collected. And I would like the Premier to speak to that. Now, it may be that he is not able to right off the bat here today speak to that, Mr. Speaker, because the collection of fines, the imposition of them, is not something that comes directly under his portfolio. And you might well suggest that we should ask Parliamentary Questions. Well, Mr. Speaker, that is one avenue to go. But I hope the Premier . . . well, perhaps we will go that way. I will not ask him, Mr. Speaker. Mine never get answered, as you know, Mr. Speaker.

[Inaudible interjections]

Mr. John Barritt: Well, because it is the truth. I am just suggesting—

An Hon. Member: What did not get answered?

Mr. John Barritt: Some of mine did not get answered. Some of mine did not get answered, Mr. Speaker.

Dr. the Hon. Ewart Frederick Brown: That will always be the case.

Mr. John Barritt: And that will always be the case, says the Premier. That will always be the case.

And that is why I suggest, Mr. Speaker, that perhaps someone else might ask the question.

So there is that important consideration, I think, that needs to be addressed when we do this, because one of the difficult aspects—and I appreciate the difficulty the police have, what with all they have on their plate—is the actual policing of this. And I happen to say, when I think about it, when I was thinking about what legislation or amendment would be required to make it an offence, I was originally thinking that it has to be drafted into the particular Acts, the Auxiliary Bicycle Act or the Motorcar Act. But this is one way to go, because there are a number of offences. If one goes and looks at, not the Auxiliary Bicycle Act, but if you look at the regulations such as those that are going to be amended as a result of this, Mr. Speaker, like the Auxiliary Bicycle's regulations or the Motorcar Construction, Equipment, and Use regulations, there are a number of what we would generally call minor offences categorised there, one of which, interestingly enough, is not using a seatbelt, for which I think it is ticketable with a fine of $50. And, you know, one might think, *Well, maybe it is time to review, given the state of traffic and the problems on our road today, maybe it is time to review all of those items,* because most of them are $50 and $60.

Indeed, if you look at this particular Amendment Notice, and you look under 3(c), you will see that, with respect to one entry under the Motorcar Act, we are going to delete $60 as a penalty and reduce it

to $50. And I was trying to figure out . . . well, one has to go look at the main regulation, Mr. Speaker, to find out exactly what we are reducing by $10 when everything else seems to be going in the other direction.

And I think (and the Premier, Minister, can correct me on this; he has got his support staff here in the House today) that that is with respect to using a vehicle with a prohibited design or colour or displaying signs, and that that fine is now going to be reduced from $60 to $50. It would be interesting to know the rationale for that reduction, Mr. Speaker, in light of what is being done elsewhere.

Some questions I have, as well, with respect to this, Mr. Speaker. I notice if you look at clause 2 of this particular Regulation, we are actually revoking the Traffic Offences Procedure Specified Penalties Notice 1991. Now, Mr. Speaker, I went and looked up that particular Notice to find out what it is we are revoking because there is no explanatory memorandum. If you do not ask, if you do not look it up, you would not have a clue.

Mr. Speaker, what we are revoking are two offences which can be dealt with by the ticketing procedure, one of which is being, as it were, reinserted under 3(d), and that is the "unauthorised tinted film sunshading material." It is the tinting offence, Mr. Speaker, without reading all of it, for which the fine is being increased to $500.

But the one that is being deleted (there may be a good reason for this, but I ask the question) is . . . the Notice that is being revoked actually created two offences. One was using, causing, or allowing use of a motorcar with unauthorised tinted film. And that, with the revocation of the 1991 Notice, is going to go by the board. And I wondered why that is so, Mr. Speaker. If there were two separate offences before, and we are revoking that notice and only carrying forward the one offence, and that is having unauthorised tinted film, why is that? Why are we eliminating one? Is there a good and valid and sound reason for that, Mr. Speaker?

I would also point out that under 3(d), it says, where we are putting back in "unauthorised tinted film" under the Motorcar Construction, Equipment, and Use Regulations, we are inserting the following, next after the entry in respect of Regulation 19, and it describes it as Regulation 20.

Well, I have to tell you, I looked up in the Bermuda laws, Mr. Speaker, that particular regulation. There is already a Regulation 20. There is already a Regulation 20. So there has been, in my view—as I say, I do not even rely on what I see when I go into Bermuda Laws Online—that in creating a new Regulation 20, or purporting to (there is already one there) creating some conflict. Not a major issue, but it is one that is there, Mr. Speaker.

Dr. the Hon. Ewart Frederick Brown: Is there a 21?

Mr. John Barritt: Is there a 21? I do not know, Mr. Premier. I do not. Maybe some of the people up here who do use their Blackberries when they are sitting—not necessarily driving—in the House can look up quickly Bermuda Laws Online and see whether—

[Inaudible interjection]

Mr. John Barritt: Oh, yes, you could always create 20B, I suppose, or 20A, something. But there is . . . I think that something has been overlooked there that needs to be, in my view, addressed.

Now, Mr. Speaker, I wanted to say just generally (and I do not think I necessarily need to belabour the point, but I do think I need to explain myself), people have stopped me since I have spoken on this issue and said, *Barritt, you know, it is all very well to create this offence, but there already is a driving offence. And that is driving without due care and attention.* And people who have used Blackberries or who in some way do not pay attention to what they are doing on the road can be charged under that. And sometimes they are, subsequent to an accident, where the police are able to piece together. And that is still going to exist, though. That is still going to be there, and I think that charge can still be laid.

I think what we are doing here today is sending the signal that using a cell phone, whether by voice or by text, is not something that we can encourage on Bermuda's roads. The Member has already spoken, and he reads the same articles I do. There was one in the *USA Today* on Wednesday of this week about Usain Bolt and some of the studies there in the States. Half of them have already adopted bans on using cell phones. And one of the interesting comments on that (and I think it is important to state this out, Mr. Speaker) is that they say that we will need to do more than just tell people no. People should understand that this is not a matter of the nanny state gone mad. It is a matter of science.

And what is being said in this particular article is that studies are proving (the Premier who is the Minister spoke to this) . . . what they are proving is that there are three basic types of distraction—visual, manual, and cognitive. And while all driving distractions carry some risk, texting in particular is the most dangerous because it involves all three types. And a person who is texting while driving is overloading his brain, requiring divided attention.

And then they go on to talk about studies and reaction times that are limited as a result. And that has got to be true of using the cell phone as well. I know, Mr. Speaker, you have heard me speak on occasion, and I have seen you nod your head and say that you, too (and I am sorry to bring you into the debate, but I do recall this), are astounded sometimes to see people who are driving, like stopped at an intersection with a cell phone glued to the ear, trying to turn left or turn right. And you really have to wonder.

You really have to wonder whether that is a good thing.

So, Mr. Speaker, it is not. It clearly is not something that I think is acceptable. And I think we are probably going to see more of this, in terms of getting to grips. And I have all the sympathy in the world with the police, who are now going to have to police this as well. But being able to do a ticketable offence means that they are going to be able to bring some people up rather quickly, and I hope where appropriate, Mr. Speaker, continue to lay the more serious charges where they are warranted, starting with driving without due care and attention.

Mr. Speaker, those are the points . . . Oh, there is one other question I wanted to ask the Minister as well. You know, with all these laws that we have, where we have the enabling legislation, then we have regulations, and then we have the Traffic Penalties Procedure Act and the provision for ticketing as well. Are any of these offences—like driving when you get ticketed with a cell phone—going to count for the points system? Now, when it comes to licences, you know, we introduced the idea of points, that after awhile you get so many points you lose your licence. I think it is incumbent on the Minister to explain to us whether or not these offences are going to account for the points system under licences so that over a period of time, if people are committing these offences and recommitting them—particularly when they are only ticketing—whether or not they will count as points so that they run the risk of losing their licence?

Those are the questions and comments I had, and I thank you, sir, for your time.

The Speaker: Thank you, Mr. Barritt, the Honourable and Learned Member from Devonshire South Central.

Oh, the Honourable Member changed his mind.

I recognise the Honourable Member, Mr. T. Lister, from Sandys South.

Mr. Lister, you have the floor.

Hon. Terry E. Lister: Mr. Speaker, I just want to add to this debate here this morning. I believe it is very healthy to make these changes that we are making. I am concerned, like many members of the public, with regard to the tinting of the windows, especially at this time. There is a lot of gun violence and other violence that is taking place; yes, a lot of it associated with young men on bikes. But at the same time, the security level is reduced by the tinting.

I agree wholeheartedly with the increase in the penalty. I would also be pleased, to be honest, if the garages raised their prices. We cannot tell them what to do. But if it turns out or it appears that the cost of doing the tint and redoing the tint and redoing the tint is not high enough to cause people to stop and think about it. So, if people were forced to pay a higher price, they would think about it a little bit more.

Mr. Speaker, one of the speakers earlier talked about the dangers of drunk driving. And again, I am going to make my case that we really do have to address that and put a little more effort into legislating and regulating what is going on on the roads in that regard.

Lastly, Mr. Speaker—I promised I would not speak long—lastly, I would like to think that we are going to take some time watching and seeing what actually happens in the community with our young people. And if we can get to a point—it may not happen this year, may not happen next year—but if we get to a point where the level of confidence that we have in our young people is returned, then we can relax these rules and regulations that we are passing today. The requirement that you not tow somebody, the requirement that you be in by one and not out by five, I support it today. But I do not want to have to support it tomorrow.

I would like to think that we can get to a point where we can relax it, take it off the table, because in the last year, because of behaviours, this Government has been required to pass a lot of legislation that comes down on young people. I am not happy about that. Quite frankly, I am not happy about it, but behaviour has made it necessary. And therefore, it is my wish that behaviour will cause us to take note, in a couple of years' time, and reverse these rather stringent and harsh positions.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Lister.

Any speakers?

No further speakers?

The Minister in Charge, the Premier, has the right to reply.

Premier?

Dr. the Hon. Ewart Frederick Brown: Mr. Speaker, thank you for the right to reply.

First of all, I will address the issue that my honourable colleague, Mr. Lister, just raised. I want the public to be clear and Honourable Members to be clear that these measures about whether you can carry a passenger and whether you can ride between one and five have nothing to do with punitive measures, at all. That was addressing the issue of safety. And in fact, it is part of the graduated licencing scheme. And it is those people who are between 16 and 18 who cannot tow somebody and cannot stay out between one and five on a bike. And it has nothing at all to do with punitive measures. And I doubt whether we are going to find a reason in the future—whether you will find a reason in the future—to relax that.

I would like to thank Honourable Members for their responses to this Notice. I would like to indicate that the points raised by the Honourable Member, Mr. Barritt, who has demonstrated a particular interest in

this area, will be taken under advisement, as will his comments about the details of the process. He can rest assured that the process will be one that is usual and customary, and held to the highest standards of this House.

Mr. Speaker, I do want to make a point about visors, about the dark visors. There has been a call in the community since the outbreak of violence for dark tinted visors to be made illegal because they are being used in the commission of crime. On the surface, and in a knee-jerk context, that might sound very compelling. But the truth is that the debate is still going on, and the prevalent position at the moment is, tinting is a process that can be done locally. If there is a young person or an old person who wishes to commit a hideous crime and wishes to have a tinted visor, banning the import of dark visors will not stop that individual from simply putting tint on top of a legal helmet. And so we have to think about that now.

An Hon. Member: Or wearing a ski mask.

Dr. the Hon. Ewart Frederick Brown: Exactly.

You know, Mr. Speaker, we have to be careful that it is a very slippery slope, as the lawyers say, because they also use bikes to commit crimes. And I would hate to see this House begin to move in the area of banning bikes because they are used in the commission of crime.

And so we have to be very careful. Despite our anxieties and despite the intensity of our effort here, we cannot simply yield to the first impulse that comes. This issue is still on the table, but it does not relate specifically to the Notice that I have brought to this House today.

So with that, Mr. Speaker, I would like to thank you and the House for your indulgence.

The Speaker: Do you move the motion?

Dr. the Hon. Ewart Frederick Brown: I move the motion.

The Speaker: Is there any objection?

Agreed to.

The Order is approved.

[Motion carried: Draft Traffic Offences Procedure Act, 1974, Specified Penalties Amendment Notice, 2010, approved]

The Speaker: The Government Whip further advised me that we will move to Order Number 8. It will save me having to call all of these Orders and rearranging. It is far easier to go to Order Number 8.

Order Number 8 is the Second Reading of the Credit Unions Act, 2010, in the name of the Minister of Finance.

I now recognise the Honourable and Learned Member, Minister P. Cox, from Devonshire North West.

Minister Cox has the floor.

SECOND READING

CREDIT UNIONS ACT 2010

Hon. Paula A. Cox: Thank you, Mr. Speaker.

I move that the Bill entitled the Credit Unions Act, 2010, be now read the second time and committed.

Mr. Speaker, having committed the Bill, let me say that it is, I think, certainly a day that I am particularly pleased to be debating this Act. I think it reflects an identity of interest, and it strikes a chord with, not just across the political divide, but I think that it also, in terms of what we are seeking to do for the community, and also seeing the credit union, the regulator, and the Government coming together with a view to ensure that what needs to be done is done.

I think, Mr. Speaker, it is also important to note that when you craft financial services regulations, it is important to ensure that as you put in place a proper, prudential, supervisory regime, that it does not paralyse or stifle innovation. But I think that we also have to keep always to the forefront of our minds those whose interests we are charged with protecting. So compliance, risk, liquidity and internal controls, operating within a properly regulated framework are key.

And I think, Mr. Speaker, it is also important to recognise that, while where we talk about financial services, it is the norm to focus on those entities as financial agencies and companies that we are much more familiar with dealing with, whether they are banks or whether they are insurance houses or even investment houses.

What makes this legislation special, and what makes it probably even more important that we get it right, is that we have to acknowledge some of the particular issues that pertain with regard to credit unions. We have to pay attention to the sensitivity of the movement. We have got to pay attention to its democratic nature. We have got to pay attention to its proud history, and certainly recognise that a central focus of the credit union's operations is the fact that it has members and that we have to make sure that we protect the interests of those members. And certainly the issue of making sure that, in light of recent developments, even worldwide globalisation and the sophistication of financial products in the market, there is a much higher, I think, emphasis on supervision and having the appropriate supervision in place to regulate the activities of credit unions.

And we were debating something else in terms of something like the economic empowerment zone. One could talk much more about some of the

sort of social–political aspects, but I think that it is certainly a key feature of having a properly regulated credit union, the fact that you also can use it as an impetus to spearhead and to have a launching pad for wealth creation and also for greater entrepreneurial activity. So, Mr. Speaker, I am very pleased today to present the Credit Unions Act, 2010, for the consideration of Honourable Members.

The primary purpose of the legislation is to modernise Bermuda's regulations and legislation governing credit unions by strengthening the regulatory framework for their supervision and assigning supervisory and licensing responsibility to the Bermuda Monetary Authority.

In Bermuda, Mr. Speaker, in fact worldwide, credit unions are important institutions, as they offer members much more than financial services. They provide members with the opportunity to own their own financial institution and help them to create opportunities, such as starting small businesses, building family homes, and educating their children. In some countries, members encounter their first taste of democratic decision-making through their credit unions. And they are certainly democratic member-owned financial cooperatives. So each member, regardless of the account size in the credit union, may run for the board and cast a vote in elections.

And the purpose of credit unions—they exist to serve their members and communities. And as not-for-profit cooperative institutions, they use excess earnings to offer members more affordable loans, a higher return on savings, lower fees on new products and services. And they serve members from all walks of life, including those who are seen to have less means.

So, Mr. Speaker, Honourable Members are aware that the Bermuda Industrial Union Credit Union at present is the sole credit union operating in Bermuda, and they have been providing some important services to their members since 1972. Now, it should be noted that in putting forward these proposals, the Government has taken into account the possibility that other credit unions might emerge in time. And it is important to note that, unlike other financial institutions, credit unions work as a cooperative, valuing volunteerism, cooperation and member participation. And in developing the new regulatory framework, the independent regulator, the Bermuda Monetary Authority, and the Ministry of Finance, working with the credit union, ensured that the unique characteristics of credit unions were not lost.

The legislation actually encapsulates the International Credit Union Principles published by the World Council of Credit Unions, which is the global trade association and developmental agency for credit unions. The International Credit Union [Operating] Principles are the foundation for how credit unions differ from other financial institutions, and they provide the framework for credit union operations, governance, and safety and soundness. You will see that, Mr. Speaker, in [clause] 3 of the Bill, wherein every credit union is encouraged to conform to these principles.

Mr. Speaker, Honourable Members are advised that the legislative framework for credit unions has never been updated. Furthermore, neither policy nor guidelines have ever been issued to assist the BIU Credit Union in the conduct of their activities. So, in order to effectively determine the appropriate regulatory framework for credit unions, research was conducted of other jurisdictions and the World Council of Credit Unions to determine best practise for the Bermuda context.

Now, under the current Credit Unions Act, 1982, the Minister of Finance has the main supervisory responsibility for credit unions. The BMA undertakes certain supervisory functions delegated to it by the Minister, and the BMA currently has responsibility for overseeing the activities of a variety of financial service providers, including commercial banks, insurance companies, trust companies, fund administrators, and investment companies.

Now, as credit unions provide financial services to their members, it was appropriate that they should fall within the regulatory purview of the BMA. Accordingly, the new legislation will transfer complete regulatory and supervisory responsibilities for credit unions to the BMA, and this is also consistent with the requirements of the World Council on Credit Unions, which maintains that the Ministry or agency that regulates financial institutions should supervise credit unions through a specialised unit trained in their nature, risk, and methodologies.

Look at some of the practises in other jurisdictions, and you see that the representations made are that having too many different agencies can lead to, I think, a convoluted and cumbersome approach. And it is much better to have it streamlined so that it is clear as to the regulatory remit, and also in terms of certainty of approach.

So the new regulatory regime for credit unions that is being provided is setting out an appropriate set of financial management disciplines for credit unions to maintain, yet also allowing for the creation of shareholder wealth for its members.

And, Mr. Speaker, the new credit union legislation will give the BMA powers to supervise any legal entity that is carrying on credit union business. The BMA will be required to keep under review the operation of these entities, including any new developments which might impact on the discharge of their duties and functions.

Now, operationally, it is proposed that the new credit union legislation will allow the BMA, among other things, to define the business of a credit union, including prohibited business, establish a licensing regime in order to process and approve applications for licenses. It will provide for them to restrict or re-

voke licences; to issue regulations and guidance; to set the standards for the minimum criteria, prudential criteria, and bylaws; to obtain information, including regular, statutory filings and financial statements in a format and with such frequency as the authority requires. It will enable the BMA to carry out assessments of the risk profile in safety and soundness of credit unions, and to conduct onsite examinations as well as off-site supervision, the continuous monitoring of the financial position and performance of credit unions, and also to perform the assessment of the credit union's compliance with the Act and regulations.

The BMA will also be empowered to require credit unions to take action to comply with the legislation and/or to discontinue any unsound or unsafe practise, and to levy on enforcement actions, and of course, the ultimate sanction, which is to wind up a credit union.

Now, Mr. Speaker, the legislation will be risk based. And it includes international standards and best practise as its foundation. The regulation and oversight powers of the BMA, you will see, Mr. Speaker, are outlined in Part 2 of the Bill, which we will get to in Committee, and they will certainly be explained there. The BMA are also required to prepare a Statement of Principles, which will give credit unions greater certainty of how their operations will be subject to regulation.

Now, the existence of legislation and statement of principles alone are not enough to ensure the sound and safe management of a credit union and protection from loss of members' savings and deposits. It is also essential that powers exist that compel compliance with legislation. So the Bill provides the BMA with various enforcement powers to ensure compliance.

You will see, Mr. Speaker, when you look at the Bill that it has much of what you would expect in terms of the powers when we have a banking act or even investment act. But it was recognised that there is not a one-size-fits-all model legislation that you could just unilaterally impose on the credit union. So while you will see that there are various provisions that the Authority has to supervise, it seemed much more appropriate to have a standalone piece of legislation because of the unique characteristics of a credit union, as opposed to seeking to just fold in as another schedule or as a part of existing financial services legislation.

I expect that as time goes on—and I would expect that we may even see other credit unions coming online—that this will be helpful in the future.

Mr. Speaker, certainly in order to ensure fair treatment of credit unions, decisions of the BMA can be appealed to a tribunal constituted in accordance with [clause] 23 of the Bill. And that is important, also, because remember, from a natural justice perspective, you always have to provide a, sort of, right of appeal when there is the power to revoke licenses and almost to stop an operation running. You do not want to be so draconian that it is just *my way or the highway.* You provide some sort of right of appeal. And that again is the fact of natural justice and everybody having the right to be heard.

Mr. Speaker, though some fundamental similarity exists. At the same time, as I have indicated, credit unions differ from banks in several important aspects. They are member owned, and they derive their capital over time from earnings rather than from investments by external shareholder subscriptions. They are able to offer their services to members only, rather than to the public at large. And they are fundamentally organised to promote the economic well-being of members, rather than to return a profit to investors. They acquire legal existence by virtue of the process of registration as a credit union. And they typically require minimum initial funds for establishments.

Now, they also have more limited powers than banks, and they typically rely exclusively on volunteer directors and officers selected from their membership. They certainly have come to play an increasingly important role in modern society, and you have seen that, even in the UK, they have talked about credit unions as a building block for helping the people to get a greater degree of economic empowerment. And certainly, I think as you talk about promoting social stability and increased savings, there is also the correlative, on the flip side, which is that you also must have increased governance and more regulatory supervision.

So, Mr. Speaker, given all these areas of differences between credit unions and banks, the Credit Union Bill has been drafted to establish a framework for regulation and supervision of credit unions. And you will see, Mr. Speaker, in Schedule 2, which deals with minimum criteria, and Schedule 3, which deals with prudential requirements, they are very credit-union specific. And these schedules address the following matters for credit unions: lending criteria, capital requirements, external borrowing, investment policy.

Now, Mr. Speaker, bylaws are fundamental for credit unions and their operations as they define the structure and internal operations of a credit union. Every credit union must submit proposed bylaws as part of the licensing process. And this has to be consistent with Schedule 1 of the Bill. And Schedule 1 provides useful guidance to credit unions when they are drafting their individual bylaws.

Now, it is anticipated that the move to this new regulatory framework will be relatively seamless, as the BMA already undertakes certain supervisory functions delegated to it by the Ministry of Finance. So there is already a solid working relationship established between the Credit Union and the BMA. Also, the proposed approach in the Credit Union Bill is that the BIU members' Credit Union will be grandfathered

into the new legislation, and as such will be deemed to be licensed by the BMA.

Mr. Speaker, the Credit Unions Act, 2010, involves significant consultation and consensus-building between the Ministry of Finance, the Bermuda Monetary Authority, and the BIU members' Credit Union. Certainly there were numerous meetings and, I think, numerous discussions and a tremendous number of letters. And I think the process has been both collaborative and productive, and it has resulted in a framework that reflects high standards and best practise internationally for the supervision of credit unions. And yet, at the same time, it is appropriate for the nature of the Bermuda market and the ultimate protection of the depositors. And they are the people we are here to protect, despite the fact that we also want, as an international, sophisticated financial centre, to have appropriate regulations and supervision. We have got to also ensure that we keep the people in the picture, and that is the members.

So, certainly, Mr. Speaker, I think I cannot conclude without acknowledging the tireless work by the BIU Credit Union and the efforts by the supervisory authority, the Bermuda Monetary Authority. And also, we were privileged to have a representative of the World Council, who certainly was on Island a few times, and one was able to get the benefit of much of his expertise and experience.

I believe you will see what is reflected in the Act is not just bare-bones provisions, but you will see that there is, in the sort of preamble, the reference to the social policy goals and the recognition of the credit union. In terms of being standalone legislation, I think we are pushing the needle, and I think we are raising the bar. And I think that we are setting a framework in place that should certainly be one that is going to be helpful over time, as I would anticipate that over time you will see other credit unions come into place. And this can be the impetus not just for . . . I think people often talk about local banking and growing a bank. I think this has the ingredients for us to see that and to see also the issue of economic empowerment from a different prism that will be most helpful.

So with those comments, Mr. Speaker, I take great pleasure in commending this debate to other Honourable Members to contribute.

Thank you, sir.

The Speaker: Thank you, Minister Cox, the Honourable and Learned Member from Devonshire North West.

I now recognise the Honourable Member, Mr. E. Richards, Shadow Minister of Finance, from Devonshire East.

Mr. Richards, you have the floor, sir.

Mr. Everard T. (Bob) Richards: Thank you very much, Mr. Speaker.

I do not think Honourable Members can find anything really objectionable about the legislation we have before us this morning. I think we recognise that credit unions form a very important part of our society and conduct a very important role in the financial framework.

Of course, we only have one credit union in Bermuda, so this legislation really is kind of specific as it relates to the only credit union we have. So I took the opportunity to spend a few minutes to look at that institution and to look at its record and how, perhaps, this new legislation would affect it.

In my little research, Mr. Speaker, I was very pleased with some of the things that I found. As a matter of fact, I think the Honourable Minister has made allusions to it. I saw things like, the objectives are based on the concept of, you know, *I am my brother's keeper,* a notable and laudable objective. Also, the objective that . . . I got this from the annual report, the latest one that I have. It is dated 2009. I also found that the institution's objective was to encourage saving among its members and, by extension, savings on the part of Bermudians. Of course, in the society that we have today, Mr. Speaker, savings is one of those forgotten things. Everybody is more interested in spending than saving. And so, you know, with my background, I thought that that was a very interesting and useful thing.

On the other side of the Credit Union's balance sheet, of course, we have the lending part. And I think that is where the idea that these savings can be used to encourage economic empowerment. All of those are very, very good things. And the fact that there is a lot in the annual report on the staff . . . and some of them have been there for (I will not call names because I know she will be very angry at me). But some of them have been there for a very, very long time, and I am sure are hardworking and dedicated people.

I was interested to hear the Minister's comments that the board consists of volunteers. And it brought to mind that, in 2010 . . . I think we have to admit that volunteers on a board of a financial institution perhaps is no longer applicable in today's world. We have seen the kind of disasters that have taken place with professionals on boards of financial institutions. Unfortunately, our world has become a very complicated place, and volunteers who are not financial people—you can have volunteers on boards, but if they are not financial people it gives rise to at least a greater probability of problems of oversight, of people not appreciating some of the intricacies of the world that we live in.

One of the things that I think is important to focus on is that this institution is there to encourage savings. But in order for it to achieve that objective—particularly that long-term objective—we have to make sure that the savings, basically of hardworking Bermudians, are prudently managed so that these mem-

bers and these depositors, their savings, their money is protected. And if it is not protected . . . and, you know, there are a lot of ways you can protect money, but most of them have to do with conforming to pretty much commonsense, prudent rules—commonsense, prudent rules. So to that extent, Mr. Speaker, it does not require a professional. It just requires the dedication to commonsense prudence.

As I looked through the annual report of the BIU members' Credit Union, I was a little concerned with that particular aspect. It seemed (and I am going to sort of elaborate a little bit in a minute) that a lot of these commonsense rules, and actually some of them, most of them, in fact, were enshrined in the Credit Unions Act 1982. So it is not as though we are creating a Credit Union Act out of the vapour, out of the ether. We are actually replacing a law that goes back to 1982. And I will be the first to say that a lot has happened since 1982, and I am sure the 1982 Act needs to be modernised.

But there were a number of very clear rules and regulations in there that regarded the safeguarding of members' savings. And I was concerned when I read through the annual report and then I looked at the financial statements, that these rules—which were not just rules, they were laws—had been treated as a kind of discretionary thing, a kind of optional thing that you could do if it was convenient; you did not have to bother with if it was inconvenient.

And by their very nature, Mr. Speaker, prudential rules are always inconvenient. They are always inconvenient. So this kind of philosophy, when applied to a savings institution, a financial institution, or any organisation that has fiduciary controls over people's money, is very problematic.

Let me say, Mr. Speaker, that fiduciary control over other people's money has to be viewed in the context that it is a sacred trust. Control of other people's money has to be done with care and caution many, many more times than the kind of care and caution you would do with your own money. Other people's money, you have to be a lot more careful with it than if it was your own.

So when I looked at their financial statements, the auditors . . . Who were the auditors? Help me out.

An Hon. Member: Arthur Morris.

Mr. Everard T. (Bob) Richards: Arthur Morris. That's right, Arthur Morris, Christensen, & Co..

The auditors had a number of things to say about the BIU Credit Union and their actual contravention of the Credit Unions Act of 1982. And all of these contraventions had to do with prudential management.

The first one, I will just quote it to you, Mr. Speaker, if you will allow me: In the 1982 Act, it says, "[11(6)(b)] A . . . credit union shall not make any loan if the making thereof would bring the total amount outstanding on loans in excess of 60% of total assets." That is pretty clear.

In 2007, gross loans—that is, without deducting for bad debts—gross loans were at 97 per cent of total assets. I mean, that is not even close—97 per cent. If you took off the amount for bad debts, it was in the 80s, 80 per cent.

Another thing that the 1982 Act said, and I quote: "[12(1)] A . . . credit union . . . [shall] set aside cash balances for the purpose of constituting a reserve fund from which [re]payment of the shares of members shall be made. [(2)] The minimum amount of the reserve shall be 20% of the total assets of the credit union."

Mr. Speaker, I checked the 2007 financial report, and in 2007 the reserve set aside for repayment of shares in the Bermuda Industrial Credit Union was zero—nothing. Cash and equivalents showed at 8 per cent of total assets. The requirement is to have a separate fund for 20 per cent, but the cash and equivalents were only 8 per cent. In 2006 it was 10 per cent.

And further, the other thing that the '82 Act required, and I quote again: "[12(3)] (3) At the close of each financial year and before the declaration of a dividend not less than 20% of the net earnings of a credit union for that year shall be transferred to a fund for losses sustained from loans until such time as the amount of the fund equals not less than 10% of the amount of outstanding loans to members."

Mr. Speaker, in 2006 a dividend of 2 per cent was paid to members, and there was no reserve fund whatsoever. In 2007 no dividend was paid.

So these are examples where, you know, as the illustrious former Vice President of the United States' book is called, *An Inconvenient Truth*. Well, this is the inconvenient truth here. And these prudential rules set out by the 1982 Act have been treated as discretionary. And they are not; they are required.

So, you know, one has to ask the question. We are putting in a new law. We are putting in new rules. Are they going to be treated the same way? That is the question.

Now, to his credit, the President of the Credit Union openly admits in the annual report that they are in contravention and declares his intention to correct them. You know, I give him credit for that. But the thing is that this kind of thing . . . we would not tolerate this kind of thing in banks or in insurance companies. We just would not tolerate this. And just because the amounts are smaller . . . the principles are the same. These are principles here. The amounts do not matter so much as the principle. The principle is, we are dealing with OPM—Other People's Money. Right?

So, we are dealing with other people's money. And therefore, we have to be extra careful.

Now, also in reading this annual report, the President of the Credit Union was very candid. And he said he thought that the 1982 Act restrictions were too

restrictive. And I can appreciate his having that opinion. But even if they are too restrictive, it does not give you licence to break them. I think 35-kilometers-an-hour speed limit in Bermuda is too restrictive, too. But, you know, if I go faster than that, I expect to get a ticket if I do it in front of a policeman. So, you know, just because you do not think the rules are right, it does not give you a licence to go and break them.

Now, there is one more thing, Mr. Speaker, and even more troubling. And that was that there was a very serious violation of fiduciary rules and responsibilities some time ago when the Bermuda Industrial Union Credit Union . . . I guess they had their arm twisted by certain people to lend the union asset holdings $3 million. And the Honourable Minister herself, I think, stated publicly that that particular Act was *ultra vires*, and I guess she pressured them to do something about it, and they did repay it.

But I mean, Mr. Speaker, that loan for $3 million was a third of the total assets of the Credit Union—one-third to one entity. I mean, that is just not prudent, is it? So this was a result, clearly, of interference—political interference—in this organisation. Because, other than that, at least from my observation, the officers of the Credit Union, even though their loans were too high as it related to assets, at least they seemed to diversify them, the schedules, where there are all kinds of different loans to all kinds of different people. So the loans were diversified, right? But all of a sudden to just drop that time-honoured principle of diversification, which is used to reduce risk, to just drop it and lend $3 million to one entity . . . so they just, I mean, threw all those rules out of the window.

And it is clear that this happened because of political interference.

Hon. Paula A. Cox: I think, Mr. Speaker, point of order.

The Speaker: Point of order.

POINT OF ORDER

Hon. Paula A. Cox: I think the Honourable Member is impugning somebody's integrity. And when you say "political interference," I assume you are referring to an elected representative. And I think that is inappropriate to say. I think that one can certainly have fair comment to the fact that there was a breach. But to say that it was a result of political interference is going a bridge far too far.

The Speaker: Thank you, Minister Cox.

Do be careful. Let us keep the tone as high as we can without sinking to—

Mr. Everard T. (Bob) Richards: Right.

I would like to remind the Honourable Minister that politicians do not include just people in this Chamber; there are politicians who are not elected members, but they are still in politics. And so when I use the words "political interference," I was not referring just to elected members. All right? I was not referring just to elected members.

The Speaker: Let us keep the tone high.

Mr. Everard T. (Bob) Richards: Right.

Here is the point: That particular episode was part of the union asset holdings episode that had to do with the Berkeley Institute project. And ultimately, ultimately, the whole thing ended up right here, where the Honourable Premier got up and said that, you know, *We are going to forgive this $6.8 million debt.* Right? So this is not just theory; this is reality here. That all ended up right here on the Floor of this House. So, you know, it is not just a fairy tale here. It actually cost the taxpayers of Bermuda $6.8 million.

Now, it is not all having to do with the Credit Union. I would say that right off. However, it is all connected to that particular sorry episode, all right, where funds were mismanaged and it ended up costing the taxpayers of this country a lot of money.

And I am saying to myself when I see this, and I see all of these contraventions . . . we can just sort of forget about the $3 million which caused concern a few minutes ago. Let us put that aside or put that behind us, anyway. When I look at the other violations, I say to myself, *Well, who was supervising this organisation? Who was riding herd? Who was the sheriff?* And the sheriff of the old Act was the Minister of Finance.

And then I say to myself, *Well, what did the sheriff do about it?* I know that, even going back to the days when I worked in the Monetary Authority (which was like several lifetimes ago, Mr. Speaker), we had to put somebody into this particular organisation. I remember that very clearly. So this has been a matter of concern off and on for many, many years.

But it just appears to me that the supervision . . . I mean, there is plenty of power given to the Minister of Finance to supervise credit unions in the old Act—plenty of power. It is not as though there was no power to supervise. I mean, I know there is going to be power to supervise in the new Act, and that is good. But we cannot acknowledge that without reference to the fact—

Hon. Walter H. Roban: Point of clarification, Mr. Speaker.

The Speaker: Minister Roban, what is your point of clarification?

POINT OF CLARIFICATION

Hon. Walter H. Roban: I wish for a clarification, because I am slightly puzzled, Mr. Speaker.

Is this a debate to sully and to sort of throw the Credit Union's reputation out to be scandalised, or are we discussing the merits of the Credit Unions Act 2010? I am a little confused. I would like some clarification, Mr. Speaker.

The Speaker: Thank you, Mr. Roban.

Carry on, Minister.

Mr. Everard T. (Bob) Richards: Let me remove the confusion in the Member's mind.

The point that we are making here—in case it escaped the Honourable Member—is that we have one credit union in this Island that has a record. And we look at who supervises that credit union, and we look at the record of the supervisor. This new Act is going to have a supervisor. It is going to be the BMA. But it is going to supervise the same entity that the Minister has been supervising all these years. So it is very relevant to . . . the question is that, you can have all of these bells and whistles that you like in legislation. If it is not going to be backed up by proper enforcement and implementation of regulations, then it matters nothing. That is the point.

Is that clear enough to you, Member?

[Laughter]

Mr. Everard T. (Bob) Richards: Right. An inconvenient truth.

An Hon. Member: Yes.

Mr. Everard T. (Bob) Richards: So that is the issue here. The issue here is not whether we can have good regulation, a good regulatory regime and rules and institutions. You know, we have plenty of manpower under the BMA down there to supervise a thousand BIU Credit Unions, as far as I can see. But that is not the point. The point is: Are they actually going to do something about it?

The rubber meets the road as it relates to the Government and/or its agencies properly supervising entities that are under their supervisory umbrella. That is the issue. So, we welcome this legislation. But we need the Minister to give us reassurance that there will be a better performance insofar as regulation and supervision are concerned than we have seen in the past as it relates to this particular credit union or any other promulgation of credit unions that come to pass in the future.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Richards, the Honourable Member from Devonshire East.

Any further speakers?

I recognise the Honourable Member, Ms. P. Gordon-Pamplin, Paget West.

Ms. Gordon-Pamplin has the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Speaker.

Very briefly, within the few minutes before the lunch break, I would like to contribute to this with respect to the Credit Unions Bill, 2010, because I believe that, as we try to modernise existing legislation, as my honourable colleague just alluded to, it is very important to use the framework of what exists and to enhance it to the betterment of both the legislative quality as well as the reality and practicality of how things are effectively done.

Now, my honourable colleague spoke to some of the challenges that exist with the existing credit union, the only one that there is. And in that vein, Mr. Speaker, it is important to underscore that when this new regulation comes into place by the BMA, that there must be an active role played to ensure the security of the funds that have been put in those various institutions—now just the one, hopefully, ultimately, perhaps more. But that there is a control mechanism in place that is active.

Because, Mr. Speaker, when one looks at a percentage requirement of, I guess, available money, liquidity of a particular entity, and you find that that is being impinged by practical applications of rules that are *ultra vires* what is allowed, the bottom line is that it is only the good graces of those people to whom loans have been made and their ability to repay that helps to support the fact that the members—the innocent members contributing into a credit union—are able to get their funds back.

So, if the directors find that they are making loans that are more than what is deemed to be acceptable in financial circles, they are putting at risk the average person in the street.

Now, I do not know, because the report did not indicate (and I have gone back and looked at some of the annual reports of the credit union as it exists), I do not know the numbers of depositors that they actually have. But it is fair to say that a significant portion of those depositors, Mr. Speaker, do not have millions. They are not large-scale investors. These are people who have chosen the route of a credit union as opposed to the big, larger, traditional banks, for whatever their personal reasons happen to be.

The Speaker: The membership is restricted.

Mrs. Patricia J. Gordon-Pamplin: Yes, the membership is restricted to the members of the BIU. However, the money that they put in is a function of what they so choose.

The Speaker: [Inaudible]

Mrs. Patricia J. Gordon-Pamplin: No.

But what I am saying is, the money that they put in is a function of what they choose to do. They are not restricted as to how much they can put in. So if a member of the union, who is allowed to be a member of the credit union, signed up for the credit union, can put $1 million of his own personal funds into the credit union, there is nothing to preclude him from so doing.

My point is that whatever amounts have been put in—it could be from large to little by way of the available funds that individuals have, and it is the average person and those who put meagre amounts, i.e., almost the widow's mite, that you save at the end of a given week, and you sort of take it over and trot it over into the credit union, or perhaps have some deductions from your salary automatically to force the saving mechanism to kick into place—that is the person that needs to be protected.

One of the things that we noted was that the board historically consisted of volunteers. And that was a dangerous situation to allow because one of the things I looked at was the attendance record of some of those members of the board, their record of attendance for their statutory meetings. And from 2006 and the year 2007, which was included in their Co-op Society Annual Reports, Mr. Speaker, the attendance of members on the board left a lot to be desired, which meant that the board—now being responsible for making decisions respecting loans—did not have meetings that were fully attended. Out of a possible 12 meetings, there was one particular individual key to the operation of that institution who attended two and was excused for ten.

Now, when you have a board that is required to have the necessary oversight for the protection of funds, we have to ensure—

The Speaker: This very Act is to strengthen all of that.

Mrs. Patricia J. Gordon-Pamplin: Yes.

And that is exactly the reason that I wish to allude to the practice as it existed because, as the unions presently exist, they ought to be conforming to the rules and regulations as outlined by the 1982 Credit Unions Act.

And some of the things that have happened, I do not necessarily have to repeat it, but my honourable colleague indicated that that were *ultra vires* that 1982 Credit Unions Act. So we want to support the idea of enforcement and ensuring that things are brought up on an even keel.

I can tell you that I do have a reasonable amount of confidence in the BMA. And if I can just, as an aside, show by way of analogy, Mr. Speaker, that working in the insurance industry, the rules and regulations as they are laid down by the BMA are so stringently controlled that on April 30th, when you are required to file your statutory returns, we had a situation in one of my companies in which a prescribed percentage of a particular action was 25 per cent. And in our instance, it went up to 28 per cent. And I can tell you that the hammer came down on me and my corporation from the BMA, all within a week of having filed—I am sorry, even prior to April 30th. So as of April 28th, it is like, *If you are going to bring me—*

The Speaker: And so it should have.

Mrs. Patricia J. Gordon-Pamplin: And absolutely, it should have.

And the same way the BMA are looked at as being the police of the industry of insurance, so the Finance Ministry has been the police for the Credit Unions Act.

They dropped the ball in this instance, Mr. Speaker. And I am certain, and I certainly hope that the BMA will have effective and current oversight to ensure that the rules and regulations that we are now planning to put in place are adhered to and that they are adhered to, not by way of convenience, but adhered to by the letter, by the letter. Because while a large company with high capitalisation may be able to say, *It does not really matter, and this money was paid back, and we have made up the capital over time, and therefore it has not basically impacted the liquidity situation,* in a situation where there is public money at stake, with sometimes very meagre earnings, it is very important that we protect the man in the street.

So, I certainly am looking forward to the BMA's standing in the stead where the Ministry of Finance clearly fell down in the instance of this specific credit union, to ensure that that level of oversight and scrutiny is maintained and that it is effected so that we do not have challenges with respect to people's money, Mr. Speaker.

I heard the Honourable Minister indicate this morning about savings, the Honourable Member, Neletha Butterfield, by way of interpolation, that savings is not so foreign, that she has her piggybank. And I can tell you, Mr. Speaker, I know the idea of piggybanks, because to a lot of people the credit unions are their piggybank. When you put your money in a big financial institution, the return that you get by way of interest is no better than if you put them in your piggybank and hide them in the henhouse or put them under the bed.

The Speaker: Or under the mattress.

Mrs. Patricia J. Gordon-Pamplin: Under the mattress, because you get virtually—you are getting almost negative interest when it comes to your savings.

The Speaker: It is going to get better. It will get better.

Mrs. Patricia J. Gordon-Pamplin: Well, hope springs eternal, Mr. Speaker.

However, that having been said, we want to make sure that when people have taken the time and made the sacrifices to protect—

The Speaker: Do not put it under the mattress, whatever you do.

Mrs. Patricia J. Gordon-Pamplin: Do not put it under the mattress, because we have too many break-ins.

But what we want to make sure of is that at least, Mr. Speaker, the corporate structure helps to confirm that their money is not going to be lost in the process.

I can tell you that I had a family member who had an account at the credit union as it existed. And I have to tell you, I raised a bit of an eyebrow because I was not confident that that was the right move at the time. However, I then ensured—

[Inaudible interjection]

Mrs. Patricia J. Gordon-Pamplin: I have no shares in Bank of Butterfield. I have no shares in Bank of Bermuda.

But one of the things that I will say, Mr. Speaker, that, having raised that concern that maybe you might want to consider putting money in a real bank, I was told that this is the real bank of the people. And I accepted that. I accepted that, that this is deemed to be the real bank of the people, the average person of the street. And in that vein, Mr. Speaker, I am very concerned that the money of that average person in the street is well protected by the actions taken by the directors, the members of the credit union, members of the Bermuda Industrial [Credit] Union. That is the average man in the street.

So this new Act, as it strengthens it, Mr. Speaker—

The Speaker: It will strengthen all of that.

Mrs. Patricia J. Gordon-Pamplin: As it strengthens it, Mr. Speaker, I am pleased to be able to support the concept of it. But I want to ensure that the BMA have effective and consistent and real, tangible oversight of the duties that will be under their purview with the advent of this new legislation.

Thank you, Mr. Speaker.

The Speaker: Thank you, Ms. Gordon-Pamplin, the Honourable Member from Paget West.

There do not appear to be any further speakers at the moment.

I now recognise the Honourable and Learned Member, Minister Cox.

Hon. Paula A. Cox: Yes, Mr. Speaker. Are we adjourning for lunch at this time?

The Speaker: That is exactly what I had in mind.

Hon. Paula A. Cox: That is what I thought, yes.

The Speaker: Is there any objection?

Agreed to.

Proceedings suspended at 12:30 pm

Proceedings resumed at 2:00 pm

[Hon. Stanley W. Lowe, Speaker, in the Chair]

SECOND READING

CREDIT UNIONS ACT 2010

[Continuation of debate thereon]

The Speaker: We are debating Order 8, The Credit Unions Act 2010. Are there any further speakers?

The Honourable Member, Mr. N. Simons, Opposition Whip, from Smith's South has the floor.

Mr. Nelson H. Cole Simons: Thank you, Mr. Speaker.

First of all, I would like to start by making it abundantly clear that we on this side think that this piece of legislation is well crafted.

In preparation for the debate I looked at the FSA (Financial Services Authority) website in the UK and how they manage their credit unions. And much of what we have included here complies with theirs already. I heard the Minister say that they had worked closely with the World Council of Credit Unions and all I can say, Mr. Speaker, is that their hard work has paid off and I would like to commend the Ministry of Finance for the diligence that they have done.

I mean, if you look at the legislation, Mr. Speaker, you will see that it covers the important issues. It covers licensing; it covers the composition of the executive directors, the appeals process, the liquidation process, the auditor's appointments, the annual report filings, investigations. What was most interesting to me was that they even had the solvency and liquidity requirements in the legislation. And it helped me understand the solvency requirements. So, generally, as I said, my team on this side believes that at this point in time the Government has done a sterling job on this piece of legislation.

Having said that, Mr. Speaker, we do have some comments to make.

An Hon. Member: However!

Mr. Nelson H. Cole Simons: No "however." We do have comments to make.

[Inaudible interjections]

Mr. Nelson H. Cole Simons: Mr. Speaker, it is fine to have legislation that is well crafted. I think the other issue is enforcement.

Now, a lot has been said about the challenges faced by the existing Credit Union that we have on the Island and the lack of enforceability of the Credit Unions Act of 1982 to date. My colleagues have talked about the unauthorised loans, they have talked about the solvency and liquidity infringements, and they have talked about the other issues, Mr. Speaker.

But my point that I would like to make is that we have to hold the BMA accountable. Mr. Speaker, the BMA is the regulator of the financial service industry. And over the years, there have been challenges with our Credit Union. They have all been well documented. But, Mr. Speaker, the BMA needs to raise its performance level. I understand they are working on improving their performance level. They have to be accountable. And they have to basically meet the standards as prescribed by other international regulators—especially when it comes to ongoing reviews of our financial institutions.

Mr. Speaker, at some point, they need to get in there and work with these institutions. And, I know, at this point on the banking side they have regular audits to ensure that the institutions comply with our local banking laws, our local banking regulations and our anti-money laundering legislation. In the banking industry it happens on an ongoing basis and the banks and the deposit taking companies really are serious about ensuring that these benchmarks of performance are adhered to. So the same thing must apply to our credit unions.

Mr. Speaker, I say the BMA must be accountable for performing its side of the deal. They must have some benchmark of performance as a regulator, Mr. Speaker.

You know, we have had a credit crisis of colossal magnitude. In the UK, Mr. Speaker, you will see that there is consideration of moving the FSA (the Financial Service Authority) under the Bank of England, which is the Central Bank. And they are doing that because there was some question of the performance level of the regulator, Mr. Speaker.

Now, we don't have a central bank, and so the question that we have to examine as a country is, what are we going to do to ensure that Bermuda's regulators perform at the best practice standards defined by international regulators. Who will hold the BMA's performance accountable? And at this point we do not have an institution that will hold (other than the Ministry of Finance) the BMA accountable for upholding its end of the deal, upholding its role as the financial regulator.

Mr. Speaker, my colleague, the Shadow Minister of Finance, raised the issue of having volunteers on the Executive Board. Mr. Speaker, this is a very interesting issue. I understand that as a mutual type company, the board members consist of volunteers and members of the union. But, Mr. Speaker, when we are talking about volunteers—and you can speak to any charity, any government board where you have volunteers—people come when time permits. Are they really committed to delivering the service and the responsibilities that are expected of them as a Board Member on a voluntary basis?

Mr. Speaker, what am I saying? When it comes to a credit union or an institution of this nature, we are talking about preserving and ensuring that the members' deposits—the 600 or 2000 members that they have in the credit union—are well secured, well managed and well preserved. And we need to ensure that the volunteers who sit on the Executive Board recognise the awesome responsibility that they have, Mr. Speaker.

I believe, Mr. Speaker, that we need to consider actually paying them some type of remuneration to keep them committed and let them know that there is a level of service that we expect of them. I think that when the members are appointed to the board, the executive, the Managing Director of the Credit Union must sit down and make it clear to the volunteers that this is not a normal charity issue—

The Speaker: That's exactly what this is doing.

Mr. Nelson H. Cole Simons: I know, but I am just addressing the volunteer side, Mr. Speaker.

And so, when a volunteer comes on board they know that they are expected to be at every meeting, they are expected to spend additional time to be on sub-committees to make sure that these organisations are run at the level that is expected of any other financial institution. They must be aware of what is expected in the local legislation, i.e., our credit unions legislation in Bermuda. They must be aware of what the international standard is, and they must do their best to ensure that their company that they are providing governance over complies with the local legislation and the international legislation. And so, the appointment of members to the Executive Board should not be taken lightly by the executives of our credit unions. And it should not be taken lightly by the volunteers who put their names forward, because it is an awesome responsibility.

My concern is that the volunteers, as stated in the legislation, have been drawn from members of the credit union. The question that I have . . . you know, in some cases they may have financial people as members of the credit union. But is their knowledge sufficient enough to be on the board of a financial institution to ensure that this financial institution adheres to best practice and has access to proper governance

and that the members can be certain, Mr. Speaker, that their directors are world class and they can do their best to ensure that the credit union is managed at a standard that will be second to none, Mr. Speaker.

So, my point that I am making is that the volunteers need to take their role—

Hon. Derrick V. Burgess, Sr.: Point of order for clarification.

POINT OF ORDER
[Clarification]

The Speaker: Yes.

Hon. Derrick V. Burgess, Sr.: Mr. Speaker, they are not volunteers. They are elected members of the board. You do not put your . . . I heard you say earlier, Cousin Cole, that people put their names forward. No. They are elected in a meeting.

[Inaudible interjection]

Hon. Derrick V. Burgess, Sr.: I am only trying to correct you.

The Speaker: Thank you, Minister Burgess.

It is not a volunteer job.

Carry on Mr. Simons.

Mr. Nelson H. Cole Simons: Thank you, Mr. Speaker.

I do not think we should confuse the BIU Credit Union with the legislation, Mr. Speaker.

Now, the Honourable Member, Derrick Burgess, got up and spoke about what happened in the BIU's Credit Union. I am talking generally about what is written in the legislation, Mr. Speaker. And I am not specifically targeting the BIU.

The Speaker: That's fine. Fair enough.

Mr. Nelson H. Cole Simons: Okay?

Mr. Speaker, the other issue that I would like to raise—and now I could speak on the BIU, Mr. Burgess—is the fact that we have grandfathered the BIU Credit Union into this legislation as a licensed entity. I have no objections to that whatsoever and I repeat it—I have no objections to the BIU's Credit Union being grandfathered as a licensed institution.

However, Mr. Speaker, given the challenges that have faced the BIU Credit Union in the past—and this is a question to the Minister—does the BMA have a remediation plan in place to ensure that the governance of the BIU's Credit Union is on its path to meeting the standards prescribed in the legislation and in the international standards? And if they have a plan in place to ensure that the BIU's Credit Union is humming along and it will be managed at a top level, then what type of lines are in place for them to bring the BIU's Credit Union up to scratch?

What type of measurable benchmarks have they set along the way to make sure that it is done, accounted and measured until the BIU is at a level whereby everyone is satisfied that it is running at a level that is expected of any financial institution?

So, that is just a question to the Minister.

Mr. Speaker, as I said earlier, there was one interesting thing that I found when I was preparing for this debate. I looked at the FSA website, and one feature that they had, that I had not seen in ours that I thought I would bring here today, if you will allow me, Mr. Speaker . . . this is from the Financial Service Authority, it is headed "New Milestone for FSA Credit Union Regulation" and it says, "Credit Unions will be required to operate an effective complaints scheme with members having access to the new Financial Ombudsman Service where they are not satisfied with the way that their complaint has been handled."

So, Mr. Speaker, my question is, what complaints process would members of a credit union have under this legislation? as I did not see it addressed.

Now, the UK, as I said here, has a new Financial Ombudsman Service for the financial service industry. Would the members of the credit unions in Bermuda have recourse to our Government's ombudsman if they have complaints about how the credit union is operating its business? if they are, you know, dropping the ball as far as customer service is concerned.

I would like for the Minister just to share with us her thoughts, or her Ministry's thoughts, on how members can have a complaints process that will satisfy their needs. I mean, obviously, we are in business and everyone should have some recourse if they are dissatisfied with the level of service provided. Would we make the Government's ombudsman available to the members of the credit unions, Mr. Speaker?

Mr. Speaker, as I said, I am not going to be very long. I have one more point that I would like to raise and then that will be it.

Mr. Speaker, I have looked at the financial statements of the Bermuda Industrial Union's Co-op and I have looked at the legislation. And there was one issue that the legislation was silent upon. And that issue was . . . you know, we talked about the liabilities of the credit unions, the assets, the revenues. But there was no accommodation for guarantees or contingent liabilities, Mr. Speaker.

And so, my question is, under the new legislation will the credit unions be allowed to grant guarantees to other institutions, be they financial or otherwise, for its members? So will the credit union provide . . . If I as a member want to have a business and I have $500,000 at the credit union, can I get the credit union to guarantee my debt with the Bank of

Butterfield? So my question is, Will the credit unions be allowed to make guarantees of that nature?

Will they be able to make guarantees to sister companies within their financial family? And if they are . . . you know, I have not seen it in any of the financial statements of the past with existing organisations, so if you can provide clarity around providing financial guarantees, Mr. Speaker.

Mr. Speaker, in closing generally . . . as I said when I opened, we believe that this piece of legislation is a sound legislation and I look forward to the comments by the Minister of Finance in regard to addressing my issues.

Thank you.

The Speaker: Thank you, Mr. Simons, the Opposition Whip, from Smith's South.

Any further speakers?

No further speakers. The Minister in charge has a right to reply.

I now recognise the Honourable and Learned Member, Minister P. Cox, from Devonshire North West.

Minister Cox has the floor.

Hon. Paula A. Cox: Thank you, Mr. Speaker.

Mr. Speaker, I think one thing I would like to say and underscore is that we have to careful. And I say that with some grave concerns.

I think we have got to distinguish petty, political posturing and political rhetoric, which is with a view of getting sensational headlines and also inducing hysteria. I think you have got to put that to one side and then you have got to deal with the reality.

And the reality is that there is a Delegation of Functions Order, and it was put in place in 1989. It comes under the legislation of the 1982 Act of the Credit Union, section 24. And I think for the Honourable Opposition to act as if the credit union was able to run rampant, and that there was not any oversight, or that there was not a process in place, is misleading and it is misrepresenting the truth.

I think, also, Mr. Speaker, they need to make up their minds. Are they going to target the Bermuda Monetary Authority as the independent regulator, or are they going to target the Ministry of Finance or the Minister of Finance? Because I think it is important to note what the process is that the Ministry of Finance, the Minister of Finance . . . I have no special skills in regulating financial institutions, so you go to the people who know how to do it. And that is why you delegate, using that Delegation Order that was under the Act of 1982, and the Delegation Order of 1989.

I think, Mr. Speaker, if you were to talk to the credit union, the credit union would tell you that there has been a continuum of change. There were some lapses, clearly. And as a result the reins and the controls were tightened. They are in the invidious position of, on a weekly basis, reporting to the BMA as to the amount, in terms of their lending, what they are doing in terms of loans, amount of loans. And let us be realistic also that in many of the financial services legislations I come on a routine basis—annually, sometimes semi-annually. You have not seen that on the credit union.

So what you are doing is you are trying to fit a square peg into a round hole. And what that has had the effect of is when you are looking at it through the prism of a rear-view mirror of a 60 per cent limit you basically are almost dooming the credit union to fail because of the unrealistic limits. That is why you use people who know as independent regulators. You also use international best standards of the World Council and you use what is considered the right international practice, which is at 80 per cent.

Mr. Speaker, our job as legislators, our job as responsible policymakers, is not to take a draconian position where we say, *You have committed a breach, thou shalt be struck down* and let's wind up the credit union. That's not what we do.

What we try and do is get them into a position of conformity and regulatory compliance. That's why you have compliance officers, that's why you have corporate governance. And the Bermuda Monetary Authority, on the basis of the Delegation of Authority, as an agent for the Ministry of Finance, has had a very close and detailed scrutiny on the credit union. And they have held them on a very tight rein and have also indicated there has been some progress made and there is still more to be done.

However, at the same time, as you move people, as you move the entity to the place where it should be you make sure that there is timeliness, in terms of the reporting obligations. And you note that there have been breaches, sanctions, and so you don't get everything that you want as a credit union. Notwithstanding that it might make you more commercial or allow you to grow at a faster pace. You have got to learn to walk before you can run.

Now we have matured as a jurisdiction, we have matured in terms of our legislative framework, and we have now come to the place where we have a Credit Unions Act in terms that are consistent with international best practice. And I have the greatest pride, on behalf of this Government, in terms of bringing this to the fore. I think it is moving the credit union to where it can go and it is also setting up an enabling framework for any subsequent credit unions.

So, Mr. Speaker, I think that much has been asked which is more properly dealt with in terms of Committee. And there are some specifics as to guarantees . . . you have got to remember, this is an enabling Act for a credit union. The fact that there is one in place does not mean that you are going to get into this place some of the details of all the by-laws and all the mandates and corporate resolutions passed by a specific credit union. But what you will get, when we come to the debate the schedules, and Schedule 1

and 2, you will see the international benchmark criteria and you will see what the accountability prism is.

So with those comments, Mr. Speaker, because I think we have got to be very careful, very careful in terms of how we deal responsibly in this place with talking about bringing up online financial services regulation and not tarring and feathering because we want to make petty, political points.

With those comments, Mr. Speaker, I would like to move that we move into Committee.

Thank you.

The Speaker: Thank you, Minister Cox.

Is there any objection?

Agreed to.

[Gavel]

The Speaker: Would the Honourable Member from St. George's North, Dame Jennifer Smith, please take the Chair of Committee, as we further debate the Credit Unions Act 2010?

House in Committee at 2:27 pm

[Hon. Dame Jennifer Smith, Chairman]

COMMITTEE ON BILL

CREDIT UNIONS ACT 2010

The Chairman: We are now in Committee of the whole House on the Credit Unions Act 2010. The Honourable and Learned Deputy Premier, the Minister of Finance, the Honourable Paula A. Cox, the representative for Devonshire North West, is the Minister in charge.

Minister Cox, you have the floor.

Hon. Paula A. Cox: Thank you very much, Madam Chair.

Madam Chair, I would like to move that we move this in traunches. And, perhaps, I would suggest that we move the first . . . let us say the first 25 clauses. Yes, that is what I would like to do.

Does that find favour with you, Madam Chair?

The Chairman: It is fine with me. Is it fine with all Members of the House?

Hon. Members: Yes.

The Chairman: Therefore, it is agreed.

Hon. Paula A. Cox: Ah, such resounding agreement—

The Chairman: Continue.

Hon. Paula A. Cox: —it warms the cockles of my heart.

Madam Chair, the Credit Unions Act 2010, the Bill (and you will see the explanatory memorandum) but let me move clause 1. It provides for the Bill's short title, The Credit Unions Act 2010.

And, Madam Chair, even though I talked about clause 1, if I can refer you to the, sort of, Preamble . . . and this is unusual in part because it deals with a bit of the social policy and the ethos of a credit union. And it is important to note that. So, with your indulgence, and my honourable colleagues' agreement, I would like to read (and this is the only area where I will actually read the legislation because I think most times people can read, but I think it is important even for the listening audience):

"WHEREAS it is expedient to modernize Bermuda's legislation governing credit unions by strengthening the regulatory framework for their supervision and assigning supervisory and licensing responsibility to the Bermuda Monetary Authority;

"AND WHEREAS credit unions are distinctive financial institutions committed to meeting the international credit union safety and soundness, good governance, consumer protection and operating principles issued by the World Council of Credit Unions;

"Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:".

Then we get into the substance, which we are about to. But I read that because the second WHEREAS which talks about the unique characteristics that define a credit union are very important. And you will see incorporated by reference the reference to the World Council of Credit Unions and their governance principles.

I think that is important that we bear in mind that we are holding our credit union in Bermuda—the sole one at present—to high standards in terms of international best practice and regulatory governance. And I think it is important to note that our credit union will meet those standards. I think, probably they have expected, and I think they relish the fact that there is a reference to the International World Council because they know that that is established—it is not subjective, it is not what any Minister of Finance, it is not what any independent regulator, but it is looking at what is considered a comparable equivalent.

Now, as we move into the clauses, and as I moved the first 25 clauses and we have dealt with clause 1, we now get into the interpretation section. That is clause 2. Interpretation is really just another word for definitions and we have a whole host of definitions under this section. And it defines a number of terms used in the Bill, including the terms "minimum criteria" and "prudential requirements"—the elements of which we are going to get into in more depth when we get the Schedules 2 and 3.

It also defines a "credit union" as "an incorporated, non-profit, financial cooperative owned and controlled by its members that may accept savings deposits and provide credit and other financial services to them."

And there are a number of definitions—you see "prudential requirements"—which is important. It sets out, it "means the reserve funding, liquidity and lending requirements and requirements for external borrowing specified in Schedule [3,] but does not include the criteria respecting the prudent conduct of a credit union's business referred to in paragraphs 4 to 8 of Schedule 2."

Clause 3 sets out the international cooperative principles and standards issued by the World Council of Credit Unions, which credit unions shall endeavour to meet. And it sets out those in, I think exhaustive detail, in 3(2)(a) through (j). And it talks about (it ends in (j)) in terms of adopting "the safety, the safety and soundness, good governance, consumer protection and operating principles approved and published by the World Council of Credit Unions."

So, in terms of when you look back 20, 30, 40, 50 years from now and somebody wants to find out, or even a member wants to find out what is the standard, if there is a contentious issue, you have incorporated by reference into this public legislation the international standard and principles embodied in the World Council of Credit Unions. It is bold and it is also the right thing to do.

We now get to clause 4 which deals with the powers and duties of the Authority. Now, in the definition section we have already indicated that the Bermuda Monetary Authority shall be defined and referred to subsequently as the "Authority." So, that is the entity we are referring to when we say "Authority"; we are talking about the Bermuda Monetary Authority.

Clause 4 gives the Bermuda Monetary Authority the duty and powers to supervise credit unions in Bermuda. Just as they have duties and powers to supervise other financial institutions, this is now another string being added to their remit, Madam Chair.

Clause 5 deals with the Authority's statement of principles. Now this is transparency, this is disclosure. It is requiring the Authority to publish a statement of principles in accordance with which it will exercise its functions under the Act.

Clause 6 gives the Minister of Finance the power to issue directions to the authority on the exercise of its functions. That's the Minister to issue directions to the Authority. It is sort of, if you can think about it, even though it is a different type of legislation or a different entity, it is sort of when you have the Banks and Trust Companies Act. You have a sort of residual power even though the Bermuda Monetary Authority as the independent regulator regulates banks, there is still some policymaking rubric.

For instance, let us suppose the Government of Bermuda—whoever they may be—decides that we should have 20 banks. That is not something that is more a policy issue as opposed to dealing with the operational mechanics of regulating a bank. So you have a certain . . . it is sort of a funny little type of model, but it is in terms of where you have the substantive operational issues dealt with by the BMA, but it doesn't negate the power of the policymaker on policy issues. And here you see something akin to that in this Credit Unions Act, in this [clause] 6.

Clause 7 is headed "Prohibition on operating unlicensed credit unions." It makes it an offence to operate a credit union in Bermuda without a licence and it provides a penalty in respect of persons convicted of that offence. And, you will see, Madam Chair, that those penalties are not something to be taken lightly. You will see in 7(2)(a) on summary conviction the penalty is a fine of $100,000 or to imprisonment for a period of two years, or to both.

And you will see that 7(2)(b), says "on conviction on indictment to a fine of $250,000 or to imprisonment for a period of five years, or to both."

And, again, this is part of the accountability prism whereby those to whom a trust has been entrusted and who have a responsibility for taking care in a fiduciary capacity of other people's money, that if they are derelict or delinquent in discharging those functions there are some sanctions that are embedded in the legislation. And it is also not dissimilar from what you will see in other financial institutions. That is clause 7.

We will now get to clause 8 which really sets out—it is giving you the road map if you want to apply for a licence. It says the "credit union shall make application to the Authority for a licence . . ." and it tells you how you do that, which it is important. So it is prescriptive.

Clause 9, "Grant of licences." It gives the power to the Authority to grant licences. It also gives power to the Minister to make orders amending Schedules 2 and 3.

Clause 10 provides for the form and duration of licences. It requires the Authority to publish notices when licences are granted and to keep a register. It also requires the credit union to display its licence at its principal place of business. Somewhat like . . .you see that with the investment companies. You see it even in something so much more pedestrian when you catch an elevator. You want to know that it has been inspected by the relevant safety officer. Because I certainly do not want to be caught in an elevator that is not functioning. But people do not want go to an entity where they are going to put their money unless they know that it is properly and duly authorised. So it is important for there to be a notice—a signpost to that portion of the world who are members (because it is not the wide public, it is that portion of the public who is a member of the credit union)—that this is a legitimate enterprise which has been properly authorised to have a licence.

That is what you should tweet. When somebody tells you that they can cure everything, you want to know do they have the qualifications. But this is what they must show—they have the licence and that it has been authorised by the Authority, i.e., the Bermuda Monetary Authority. So that is clause 10, Madam Chair.

And you will see then that we move on to clause 11. Now what does that say? That requires the credit union to make by-laws that comply with the requirements of Schedule 1. Well, we cannot get ahead of ourselves at this stage and talk about Schedule 1, but your by-laws are really your internal operating rules of the credit union. And I do not have to refer to the BIU Credit Union, but let's think even of a company. A company has to comply with the Bermuda public legislation, the Companies Act. But it must also have its own internal rules which are set out really in terms of its by-laws and also its memorandum of association.

So now, remember, we have this different financial entity known as a credit union, but it operates in roughly a similar manner as other financial institutions. But what distinguishes the credit union from others is the fact that it has certain unique characteristics. It has some very social policy element, it is taking care of its members, it is there for, I think, a much more inclusive group. You do not have to have $100,000 to become a member. You do not have to have $100,000 to invest. But it takes what you have and you can invest, Madam Chair. So that is clause 11.

Clause 12, it requires the credit union's name to include the words "credit union" and it creates an offence and penalty for misuse of that name.

Clause 13 is the all-important clause relating to fees. It provides for fees to be paid by licensed credit unions and it also provides for penalties for failure to pay the fees. And you will see that it makes a reference to the licence and the period and when you must pay and the amount and it is quite detailed. No soft approach here.

Clause 14 sets out the circumstances in which the Authority may restrict a credit union's licence and the conditions that it may impose. It also creates an offence and penalty for failure to comply with a licensed condition. That is clause 14.

We are now going to get to clause 15 which deals with revocation of a licence. Remember earlier, Madam Chair, when we talked in the Committee of the whole House and we talked about the fact of natural justice which is really the question that everybody should have the right to be heard—especially when you have such tremendous power to basically take away the ability for an entity to conduct business. Revoking—that is serious stuff. So you also want to give people, when you have that power . . . and you will certainly see the authority when it becomes necessary, should it become necessary, where they have to revoke (whether it is in a banking institution, whether it is with a licensed investment company) there has to be a remedy for the entity that is going to have its licence revoked. And we will get to that.

But this deals with that very significant power of revocation of a licence; in other words, stopping the entity being able to do business. So, it sets out the circumstances in which the Authority may restrict a credit union's licence and the conditions that it may impose. It also creates an offence and a penalty for failure to comply with a licence condition.

Now, clause 16. What does that do? "Winding up on petition from the Authority." It sets out the circumstances in which the Supreme Court may wind up a credit union whose licence has been revoked and it provides for the application of Part XIII of the Companies Act 1981 to the winding up.

Clause 17 has got a subtitle, "Notice of restriction or revocation of licence." This requires the Authority to give a credit union notice of its intention to restrict its licence, vary a restriction or revoke a licence. It also provides a process for the credit union to make representations to the Authority in respect of the notice and for the Authority to consider representations and to make and communicate its decision to the credit union. And, finally, this clause provides for further representations in respect of the decision in certain cases. Now that is clause 17.

As we get to clause 18, which is "Restrictions in cases of urgency." This provides for a summary notice to be given to a credit union where the Authority must impose a restriction urgently. It also provides for a different process than the one that I just set out in clause 17 for credit union representations and decisions by the Authority in respect of the notice.

Clause 19, "Surrender of licence." This provides for the surrender of a credit union's licence and for the date that the surrender takes effect. It also sets out the circumstances in which the surrender may be withdrawn.

Clause 20 . . . interesting, important—"Directions to protect the interest of members." This enables the Authority to issue directions in certain circumstances to a credit union whose licence has been revoked or surrendered. It also creates an offence and penalty for failing to comply with a decision or direction issued by the Authority.

Clause 21, "Notification and confirmation of directions." This provides for the manner of giving, varying and revoking directions and their content. It also provides for representations respecting directions to be made by a credit union for the taking of effective directions and for their confirmation by the Authority.

Clause 22, "Rights of appeal," which is what it is dealing with. Now it provides a credit union with a right of appeal against the restriction or revocation of its licence. It suspends the revocation until the appeal is brought and determined and gives the appeal tribu-

nal the power to suspend restrictions while an appeal is pending.

Now, this clause also provides a right of appeal against the fit and proper ground for the restriction or revocation of a licence by the first person found not to be fit and proper, and an appeal by an officer removed as chief executive or senior executive. And this again, Madam Chair, is synergy between what we look at and consider important in terms of our other rubric of financial services legislation.

Reputation for Bermuda is so very critically important, so the standard and quality of those who wish to incorporate and do business here—the quality of the offices, the people who are appointed as service providers and investment managers—must be fit and proper. If not, [they] can cause Bermuda to be put in a most invidious position. And sometimes—sometimes—there are persons who have done that. Rare, fortunately. But it is very important that they have to be fit and proper. And it is very reassuring to also see that even in terms of our local entities, because of the important work that they are doing, that there is that requirement and there is the relevance of fitness and proper for the purpose, in terms of discharging their duties. So that is what we saw in that clause.

Clause 23 deals with the "Constitution of tribunals." Much more, sort of, procedural formalities. It is not difficult or complex, but it is setting out what the rules of engagement are. So it provides for the constitution of the appeal tribunal referred to in clause 22, including the appointment of the chairman, deputy chairman, and other members of the tribunal, eligibility for appointment, qualifications required and the length of appointments.

Now, I know Madam Chair, that there are some who may have difficulty because often when you have these tribunals you usually require in many cases (though it may not be in this one) that the chairman and deputy chairman are lawyers. I have been looking at some another tribunal that I am going to be bringing legislation to and I can imagine some of the horrors both around the Cabinet table and maybe in this place because they believe that we act sometimes, in terms of drafting, as if lawyers are imbued with magical powers. But I think it is just recognising that those to whom skills are given should actually be recognised as such.

Now let us get to clause 24, "Determination of appeals." Clause 24 sets out the question to be determined by the appeal tribunal and the powers of the tribunal to confirm, reverse, or vary the Authority's decision. So this is giving some comfort that if you feel that an entity, even a Minister—but in this case it is the Authority. If you feel that they have acted with, I suppose, a much more punitive . . . or that they have not properly considered the matter, there is a right of recourse. And you will see by clause 24 that it actually contemplates that there could be a variance, or a reversal, or confirmation of the Authority's decision. And it also provides—and this is part of the transparency loop, the disclosure loop—for the tribunal to give notice of its determination and the reasons for it.

I recall, Madam Chair, when I became the Minister of Immigration, that it was not often usual—in fact, it was not the norm—when somebody's work permit was revoked to give reasons for it. And probably because as a lawyer I believe that you should have that, you should know, and you see that that is how you move the pendulum. That is how you move the continuum of change and you give . . . that is now the norm. And this is what we are talking about here. If I am going to deny (and I say "I" using it really hypothetically), if someone is going to deny or revoke a licence then it should not just be because I feel I want to revoke it; there has to be a reason—a defensible reason. If not, you can be taken to court because of an excess of authority or under administrative law principles. It is, "Power corrupts, and absolute power corrupts absolutely." So that is why you have checks and balances and controls.

Now, Madam Chair, we are getting to the end of the first traunch. It went so smoothly and so quickly that it almost makes you want to continue. However, I will desist.

[Laughter]

Hon. Paula A. Cox: I will desist. Let me go to clause 25—that will be the end for now.

The Chairman: Regarded to your motion.

Hon. Paula A. Cox: "Costs, procedures and evidence."

This provides for the tribunal to give directions as to costs and gives the Minister the power to make regulations, subject to the negative resolution procedure, with respect to appeals. Now, it also creates offences and penalties for failure to attend and give evidence to the tribunal, or for altering, suppressing, concealing, destroying or refusing to give evidence.

So, Madam Chair, that is the first set of clauses. We still have a number to do but I think this gives people a natural break and also the chance to have some dialogue.

Thank you.

The Chairman: Thank you, Minister.

Does any Honourable Member wish to speak to the motion that clauses 1 to 25 be approved and stand part of the Bill?

The Chair recognises Mr. N. H. Cole Simons, the Opposition House Leader and Shadow Minister of the Environment, Representative for Smith's South.

Mr. Simons, you have the floor.

Mr. Nelson H. Cole Simons: Thank you, Madam Chair.

I just have one issue that I would like to raise. And I would like to direct you to item 3(2)(b).

The Chairman: Do you mean clause 3(2)(b)?

Mr. Nelson H. Cole Simons: Yes, Madam Chair.

The Chairman: Thank you.

Mr. Nelson H. Cole Simons: And it says, "no member or delegate is entitled to vote by proxy."

Now this, in my estimation, denies a number of members the ability to vote at AGMs, or special meetings. Why do I say that?

I mean, the Minister said earlier that this type of organisation is inclusive and embraces the members, Madam Chair. But, if you have members that have millions with the organisation and they are seniors who are not able to get out, there should be some ability for them to vote by proxy, Madam Chair. They should be able to send in a proxy to the secretary of the company to have their vote heard, to have their voices heard.

Most institutions are sophisticated enough . . . the corporate secretarial abilities today enable proxy votes to be counted, and it is second nature. So I was quite surprised to see that clause 3(2)(b) was in there to deny members, if they are not able to attend for physical problems or if they are travelling for sound reasons, the ability to vote even though they have money in there.

So, I would ask the Minister, would she consider amending or deleting that particular item because we should not deny any member the right to vote if they cannot make a special meeting where votes are taking place, in particular the AGMs.

Thank you.

The Chairman: Thank you.

Does any other Honourable Member wish to speak to the motion that clauses 1 to 25 be approved and stand part of the Bill?

The Chair recognises Mr. E. T. (Bob) Richards, the Shadow Minister of Finance and the Representative for Devonshire East, constituency 11.

Mr. Richards, you have the floor.

Mr. Everard T. (Bob) Richards: Thank you, Madam Chair.

Just a couple of points: On clause 19 that relates to surrender of licence. It may be somewhere else in the Bill, but that [clause] and the next [clause], [clause] 20, deals with, I guess with what might be termed as the nuclear option. When things go terribly wrong, you have to revoke the licence.

I was wondering if there was—perhaps the Minister can help me—if there is anything else that focuses on matters before they reach that stage. You know, these things are kind of after—particularly clause 20—are sort of after the fact, after the licence has been revoked. We sure as heck do not want to reach that stage, all right? If we reach that stage, it is basically a mission of failure all around. So we do not want—

[Inaudible interjection]

Mr. Everard T. (Bob) Richards: —well, not all around. Yes, for the credit union; and I think for the society in general, we do not want that to happen.

So, I mean, things can go wrong—and we all know that things can go wrong. But I am interested to know if there . . . and I know this has to be here, you have to have the wall and that is what this is, I understand that. But I wondered if there were any other points in here that related as to what the regulator should or could do before you reach the stage of termination pretty much.

My next point . . . the Honourable Minister made reference to (and I am not sure which clause she made reference to but I think it is clause 22). The Minister talked about a fit and proper people. And I was wondering if she could be a bit more explanatory about what exactly that means.

Pardon me?

[Inaudible interjection]

Mr. Everard T. (Bob) Richards: Clause 22, right. "A fit and proper person." It is a phrase that is used widely, I think, but it might be interesting and useful particularly for listeners to know what a fit and proper person is.

Thank you.

[Inaudible interjections]

The Chairman: Are you finished Mr. Richards? Remember you were addressing the Chair.

Does any other Honourable Member wish to speak to the motion that clauses 1 to 25 be approved and stand part of the Bill?

If not, I will let the Minister in charge, the Honourable and Learned Deputy Premier, Minister Cox, reply.

Minister Cox, you have the floor.

Hon. Paula A. Cox: Thank you, Madam Chair.

Madam Chair, some very interesting questions. And I particularly like the comment made by the Honourable Shadow [Minister] for Finance when he talked about the clause in terms of revocation being almost—in his terms, colloquially—almost like a nuclear option. Because, you know, had I not listened so attentively, I might have thought that in some of his earlier comments that he was suggesting that we

needed to use the nuclear option much more liberally earlier. But, that is me maybe having a bit of political rhetoric, so I will move on. I'll move on.

But, Madam Chair, what is important is that . . . I will talk about some of those issues when we get a little further down. And the Shadow Minister did ask, did it come up later. You will see in terms of some of the—it is not quite touchy, feely stuff—but sort of some of the principles are set out in the Schedules.

And I will note that with regard to the clause, which is 3(2)(b), you will see that the reference in terms of what the Honourable House Leader, Mr. Simons, asked about, that is consistent.

And that is the interesting thing. I listened to him and I thought it sounded persuasive, but I think that what we are using as the benchmark is the World Council of Credit Unions and to operate in compliance with PEARLS [Protection, Effective financial structure, Asset quality, Rates of return and cost, Liquidity and Signs.] Which is very important in terms of setting out the, sort of, prudential approach. And they have required—and that is what they have as a criterion—is that no member or delegate is entitled to vote by proxy. And while on a sort of one-off case it may sound . . . you pull at heartstrings by saying the elderly lady who may be confined. But I think part of the animus which animates the credit union is the fact of a certain amount of the members and the intimacy and the, I suppose, the collegial closeness in terms of how they operate, as distinct from a strictly, strictly, much more rigidly structured business environment. And I think that is why they probably why they are wanting . . . I am speculating, but that that is probably why they want no proxies, but people to be there in person, because it is also linked to this whole spirit of collectivism and the social policy.

However, the strict position is the fact that this was something that is embedded and embodied in the World Council of Credit Unions; it is their international best practice. And really what we sought to do was to embed in our legislation what is the international best practice and standard, and that is why.

So while it sounded, on a one-off basis, like *oh maybe, perhaps*, but, no. If we are saying we are going to be held to international standards and going to use the international standards, that is what we have included in our legislation. And that is where we decided we wanted to pitch the legislation.

I think that in terms of the—going back to the comments made by the Honourable Shadow Minister for Finance about the issue of the nuclear option and the fact that what is there to happen before. While we will get in some way some of that when we get to some of the schedules, I think it is important to note that the BMA has the ability, as indicated, to issue directions. So before you restrict or revoke, the Authority has the ability to issue directions. And that is why you have the opportunity through your independent regulator to intercede and to get into a dialogue and also have perhaps the opportunity to make recommendations before you get to the nuclear option.

Bear in mind that this is not something unique. What we are trying to do is formalise and codify through public legislation. But remember that even now I said that the BMA on a weekly basis . . . and you have some first class persons who are working at the credit union. I think they have the desire to see it become a first-rate institution and have been working assiduously to that end. So every week, at the end of the week, they are providing the information as to the amount of loans outstanding so that they make sure that there is that adherence. And those who adhere find that there can then be much more latitude given in terms of trying to provide more, I suppose, flexibility in terms of the amount of the lending that the credit union can do.

Now that was obviously prior to passage of the Act. Once the Act is passed, clearly the Act then takes over in terms of how the credit union has to be run. But that was the issue with regard to what happens before you get to the nuclear option to, sort of, avert the nuclear option.

And "fit and proper" . . . that, again, you will see. It is like we are baiting you in. You are going to get some more information about that when we get further into the schedules. That is sort of to keep you interested and to keep you with me.

[Laughter]

Hon. Paula A. Cox: I want you to be reliant upon my every word. It is like a woman on the dance of seduction, I suppose—not that I know too much about that! But I thought that I would just use that as an example. So this is what we are talking about. And this is exciting stuff, you know, it is exciting stuff—this credit union legislation.

So, Madam Chair, I think I have answered the questions, but we will get to more later.

The Chairman: There are rare occasions when such financial matters raise such fashion, ma'am.

If no other Member wishes to speak to the motion that clauses 1 to 25 be approved and stand part of the Bill I will put the question.

Those in favour of the motion signify by saying Aye. Those against the motion say Nay.

AYES.

The Chairman: The Ayes have it. Clauses 1 to 25 stand approved.

[Motion carried: Clauses 1 through 25 passed]

The Chairman: Minister you may continue.

Hon. Paula A. Cox: I think, Madam Chair, what we can try to do is the rest up until the first schedule. So let's go from [clauses] 26 to 48. And, if you feel, or Honourable Members want to take a break and stop in between, then, certainly, I am open to that. But I think let's try and move clauses 26 to 48. And then we will take a natural break and then we will do the schedules.

Now, clause 26 is dealing with the issue of further appeals on a point of law. This provides for the appeal of the appeal tribunal's decisions to the Supreme Court on a question of law and to the Court of Appeal with leave of that court. So it is really again setting out your framework for remedies.

If you, as a credit union, feel that you have been hard done by, you are not locked into just what the position of Authority is. You have a right of appeal in law and you can go, not just to the Supreme Court with leave (in other words with the agreement, consent, of the judicial bodies at the Supreme Court), it can even go on to the Court of Appeal. While I cannot contemplate that sort of remedy being required, I think it is important for it to be there in law so that people, and the credit unions, and the credit unions not just of today but those of the future see what there is and that there is a hierarchy if they feel that they are aggrieved and are not getting satisfaction.

Clause 27 deals with the appointment of an administrator by court. Now, this provides for the Supreme Court to appoint an administrator to administer the business of a credit union in certain circumstances and sets out the duties and powers of the administrator. The clause empowers the Supreme Court to give directions to the administrator and provides for his or her remuneration.

Now, I am not going to get into too many, I suppose, current circumstances. But where there may be a financial institution which has had the benefit of having the people's money invested in it—whether through insurance policies or other—sometimes you need to have something which is structured so that people feel that they can have a right of remedy and know what is happening in terms of even in terms of . . . even if their company may not have the same people running it, that they know that there is some way to get access or to get some sort of remedy and even to get some of their funds.

Well, what we are talking about here is that you are almost putting this in the hands of a neutral observer, a third party who is known as an administrator, to help deal with unravelling whatever needs to be unravelled and to give them their, I suppose, justice, particularly in terms of whether it means compensation or constitution or even their funds. So that is where we are with clause 27. And it provides for the Supreme Court to appoint an administrator. It is nothing arbitrary or capricious, no political intervention; it is using the functionality of the court which should give people confidence.

And that is one of the points made even in terms . . . If you do some of the reading about credit unions they say that when you impose and embed a system of regulation that is credible, then, if anything, it helps to grow the credit union both at the micro-level, in terms of having greater member subscription, but also at the macro-level in terms of having a greater number of credit unions that may be established. Then people have some certainty and confidence in the framework which has been set up in terms of regulatory governance and the fact that there are sanctions and there is an effective system for compliance. So that is what we are talking about here.

Again, part and parcel of those controls and having confidence, when you turn to clause 28 you see that it provides for the appointment of an auditor. This is for the appointment of an auditor for the credit union and it requires the credit union and auditor to give notice to the Authority in certain circumstances. It also creates an offence and penalty for failure of the credit union or auditor to comply with its provision. So that is clause 28 dealing with the appointment of an auditor.

Clause 29 (and it is obviously in sync with the appointment of an auditor) has a subheading, "Duty to prepare annual statements and accounts and to audit." This provides for the financial reporting by the credit union to the Authority and it sets out the details of statements and the returns required and the specifics, and it specifies the accounting standards to be used.

It also makes provision for inspection of financial statements and creates an offence and penalty for failure to prepare the statements or have them audited.

Again, when you think of a company and what we have in terms of the Companies Act legislation, and even in terms of funds if we are talking about the investment context, there is a requirement to have statements audited, both for shareholders—shareholders want to know that they are getting a return and they want to know that there is disclosure and compliance. That is what you are seeing also with this financial entity—the credit union. Duty to have accountability and to have statements. And that is why it is also very important—and sometimes the Government has some lag and it is certainly nothing to be proud of but sometimes you are late getting statements—but it is important because statements show you much more clearly where you are. And it also shows to the shareholder—the taxpayer—where you are. So that is very important in terms of embedding and having that requirement.

Now, clause 30 deals with "Auditor to communicate certain matters to the Authority." Well, you do not want to have the auditor appointed and then it just goes into some hole. That does not make sense. So you want to make sure that there is a reporting requirement and it requires the auditor to communi-

cate certain matters to the Authority and it creates an offence and penalty for failing to do so. That is important. It seems simple, but that is important. Because once you have seen that there is something wrong, it is sort of like a professional whistleblower in part. Because, once you identify that there is a problem, then you cannot just put it in your desk and say, *Oh, that's uncomfortable. I am not going to deal with it.* You then have a feedback loop. And the auditor's feedback loop is to the Authority to say*, Hey! I have noticed a problem. This is what I recommend; you need to have a look at this.*

So, again, transparency and feedback. And, again, what you are looking at . . . remember, the person who is the unseen person listening and who is considering investing is the member—a potential member—who is saying, *Hey, this sounds like a good idea. I have even more confidence. They are taking care of my interests. That is what this legislation is doing. I am going to go and put a $1,000, $10,000, because I feel that there are appropriate checks and balances and controls.*

That is how you grow an institution; that is what you call empowerment with another name. So that is what we are talking about and that is all about having the necessary checks and balances to give confidence in the institution, to give confidence in the processes. So that was clause 30.

We are now going to clause 31. All of these are linked, really, and it all may sound like banal stuff, but it is important. If I am investing my money, I want to know that it is going to be protected insofar as I can.

Annual returns. It requires a credit union to deliver an annual return to the Authority, to set out the contents of the return, and it creates an offence and a penalty for failing to deliver it. So it should not just say, *There! You have to do it . . .* and then people wonder *Well, suppose you do not do it, what are the sanctions?* That is why you must have a penalty in there. That is why there is enforcement. It all works together.

Clause 32, "Matters required to be notified to the Authority." Now this provides for certain matters that a credit union must notify to the Authority. It sets out a time period for notification and it creates an offence and penalty for failing to notify. Now, I am not going to go through . . . because everybody can read. But, for instance, matters required to be notified to the Authority. I will read out a couple of them: "[(a)] failure of the credit union to meet any prudential requirement, minimum licensing criterion or other obligation imposed on it under this Act; [(b)] actual or suspected fraud in relation to the business of the credit union;".

So you see that there is the need to advise and to inform where there are issues of concern. And that is for the credit union to notify the Authority.

Clause 33, this is the power to obtain information and reports. It gives the Authority powers to require information and reports from the credit union and it places a duty on the credit union to provide notification of matters to the Authority that effect its functions under the Act.

Clause 34, this is the power to require production of documents. It gives the Authority powers to require credit unions to produce such information and documents as it may require to perform its duties. This is separate from legally privileged documents and it is certainly to take copies of them and to receive explanations about them from the credit union. This clause also creates and offence and penalty for failing to produce the documents or information.

Clause 35, talks about right of entry to obtain information and documents. Now this gives the Authority's officers, servants and agents the right to enter premises to obtain information or documents where notice has been sent to a credit union requesting them. It also gives the Authority the power to authorise its officers to enter premises to obtain information or documents where it fears that entry would be refused or that the information or documents would be destroyed if a notice were sent.

So, this is a right of entry. It is an interesting one in terms of the fact that you can go in . . . it allows the Authority to be very activist and to do that. I think it has been a long time within terms of in law . . . I recall probably one of the most exciting times I had while a law student in London was when we went and we were carrying out an Anton Piller Order, which allows you to basically just to go in and . . . the Honourable Shadow Minister spoke about "nuclear option." That allows you to go into a company—no notice—and it is almost like you are a SWAT team and you get the documents that you want.

Now, I do not think that was as exciting as this because it was more about protecting some celebrity who was being defamed, but you use an Anton Piller Order. Here we put in public legislation the right of entry to obtain information and documents. And it is important where you think there may be real risk that documents could be, I guess, gotten rid of. Some people said that that might have happened in 1998, but I certainly would not have thought that would happen, surely not.

In any event, now we move to clause 36, "Investigations on behalf of the Authority." Clause 36 gives the Authority the power to appoint investigators to report to it on the ownership or control of a credit union or in respect to its business. Now, this clause gives investigators powers of entry—I really did not want to spark such debate, that you are no longer riveted, Members—but it gives the Authority the power—

The Chairman: There's a danger.

Hon. Paula A. Cox: —to appoint investigators to report to it on the ownership or control of a credit union or in respect to its business.

The clause gives investigators the powers of entry and places a duty on the credit union, its officers and agents, to attend before an investigator and produce the information he requests, except, of course, for legally privileged documents. It also creates an offence and penalty for failing to produce the documents or information.

Clause 37 is dealing with investigations of suspected contraventions. You will note that all of these are linked and we go through them very quickly because they are logical, really. They flow one to the other. This provides for greater powers of investigation where the Authority suspects that a credit union is operating without a licence, including powers of entry and powers to require information, the production of documents (other than legally privileged documents), and it answers to the Authority's questions.

It also creates an offence and penalty for failing to comply with requirements imposed by it. So that is clause 37.

Clause 38 is dealing with "Powers of entry in respect of suspected contraventions." It is the same title, sort of, really. It provides for the issue of a search warrant by a magistrate who suspects that a credit union is being operated without a licence, and that a warrant is required to obtain information pertaining to such operation. The clause provides for the period during which the warrant shall continue in force and for retention of documents seized under it. It also creates an offence and penalty for obstructing the execution of the warrant.

Now, as we look at these clauses it is important to realise and to remember that what we are doing is setting up the enabling framework for the regulation of credit unions. The fact that there is only one credit union at present is irrelevant. It is like when you look at legislation for the banks and deposit companies. You are not doing the legislation to say this is what X-bank or Y-bank is likely to do; but what you are doing is setting up the framework for that sector, or as the Honourable Cole Simons said, "for that industry."

So, I do not want people to misread, misinterpret, misstate and say this is because those guys down there need it. What we are doing is setting up the general principles for running a credit union. That is what we are doing, as opposed to targeting a particular named entity. There is a very important distinction, and we must bear that in mind.

Clause 39 is, "Obstruction of investigations." It creates an offence for falsifying, concealing, destroying or disposing of documents that are relevant to an investigation and sets the penalty for the offence. That is very important, clearly, because you want to be able to get that information and, you know, I think that is important.

I could talk about oil spills, I could talk about a number of things; but it is important that you let people know that it is not kosher to destroy evidence. And you are letting people know that if you destroy evidence, that is going to warrant a most strict and serious scrutiny.

Clause 40 deals with regulations. That gives the Minister of Finance the powers necessary to make regulations subject to the negative resolution procedure to implement the Act.

Clause 41 talks about the liability of members for debts of credit unions. It gives a limited protection to members of the credit union against civil liability for its debts.

Clause 42 is "Obstruction," and it creates a general obstruction offence and sets out the penalties for it.

Clause 43 deals with offences by bodies corporate. So it creates an offence for officers and directors of a credit union who consent to or connive in an offence by the credit union. And, you know, that is obviously . . . those who are charged with management have a responsibility. Remember we did a change with regard in terms of when people do not pay their pensions. And even if you may be a manager, we made accountable the directors and officers of companies where money is taken from somebody's salary packet but it does not find its way to the office of the Department of Social Insurance. So it is showing to people that we take this so seriously that even if you may not be personally responsible, because of the office you hold you are held to be accountable.

So even when, for instance, in terms of government, a civil servant may not have done their job. The buck stops with the Minister. Even if the Minister had not a thing dickey bird to do with it, it is like you are held accountable—even if not in law, certainly in the court of public opinion.

Clause 44 repeals. Remember, what we say is that we are starting a new age. This could be called the dawning of a new era, it could be called coming of age. So what we are doing is repealing the Credit Unions Act, 1982, and the Credit Unions (Delegation of Minister's Functions Order), 1989. That is what we are doing in clause 44.

In clause 45 it is transitional. Now this provides transitional rules for resolution of conflicts between the provisions of a credit union's private Act and the provisions of the Bill.

Clause 46 provides for the granting of a licence to the BIU Members Credit Union Co-op Society on the coming into operation of the Act. That is what you call grandfathering in.

Clause 47 makes the consequential amendments set out in Schedule 4, which we have not yet come to.

Clause 48 provides for the coming into operation of the Act. And that is when it is gazetted.

So those are the balance of the clauses. We still have some other aspects to do as part of the tidying up. But those are the provisions of the Act, Madam Chair.

The Chairman: Members, it has been moved that clauses 26 to 48 be approved and stand part of the Bill.

Does any Honourable Member wish to speak to that motion?

Then I will put the question. Those in favour of the motion that clauses 26 to 48 be approved and stand part of the Bill signify by saying Aye. Those against say Nay.

AYES.

The Chairman: The Ayes have it. Clauses 26 to 48 are approved and stand part of the Bill.

[Motion carried: Clauses 26 through 48 passed]

The Chairman: And the Minister may now move the schedules. You can move the schedule and the Preamble.

Hon. Paula A. Cox: Thank you, Madam Chair.

I would like to move the schedules and there are four. And I would like to move the Preamble.

The schedules are relatively self-explanatory. For instance, the Honourable Shadow spokesman, Mr. Bob Richards, asked in terms of fit and proper persons. It would be nice if we had a cookie-cutter template, but this tries to give some sort of context to it. And it says in clause 1 of . . . how come I am on Schedule 2?

The Chairman: I was wondering the same thing myself.

Hon. Paula A. Cox: I'm sorry. I think I must have skipped—

The Chairman: But there is no Schedule 1.

Hon. Paula A. Cox: Yes there is, on page 26.

The Chairman: Oh, okay. Yes, I've got it.

Hon. Paula A. Cox: Schedule 1 deals with the requirements for the by-laws. Remember, we say the by-laws, just like a company has by-laws, and its constituent documents or its constitutional documents—whichever phraseology you prefer. This sets out those clauses which should be in your by-laws.

That is like your charter, your rules. It talks about the fact of membership, it talks about meetings, it talks about the size of your board, it talks about those, sort of, housekeeping details—committees, supervisory committee, a credit committee. It talks about the executive officers and the chief executive officer. I think that is really a matter . . . that is not the only thing that can be in your by-laws; but that tells you what the minimum things that you should have are.

Schedule 2 deals with the minimum criteria. And again, I talked about the "fit and proper" persons, when you look at clause 1 and you read that you will see that it says:

"(1) Every person who is, or is to be, the chief executive officer, a senior executive officer, an officer or a director of a credit union shall be a fit and proper person to hold the particular position which he holds or is to hold.

"(2) In determining whether a person is a fit and proper person to hold any particular position, regard shall be had to—

"(a) the person's qualifications, training and previous conduct and activities in business or financial matters;".

In other words, if somebody has been on a board of a company that has been struck-off many times before, or has criminal convictions which would suggest that they have problems with handling people's money, I do not think that would be on your top priority as somebody who you would want as a fit and proper person to serve as an officer of the credit union.

They also say that you look at "[(b)] the person's probity, reputation and character." That, again, is kind of subjective; but I would suggest that you would be looking at whether they have any criminal convictions or things which indicate from some documented evidence that they have had a problem.

And it looks at "[(c)] the competence and soundness of the person's judgement for fulfilling the responsibilities of that position."

And it looks at "(d) the diligence with which the person is fulfilling or likely to fulfil those responsibilities."

And then it goes on and it gives you some more items to look at as a guide in terms of whether you consider somebody to be fit for the purpose.

That is under the minimum criteria. And it is important that we note, because in years to come or decades to come, if there is ever a question in terms of a matter with any credit union, you will be looking and asking, *What did the legislators intend*? And you will look and you will see the topic at the head of Schedule 2 is "Minimum Criteria." And while people will tell you that headings do not form part of the legal criteria per se, they will say that this suggests that those Members of Parliament at that time on July 2, 2010, felt that these were some minimum criteria. So they will use that as a means of interpretation if there should be a subsequent issue raised decades from now and they want to know what was in the minds of those of us who were debating this Bill.

Then we go to, you will see it talks about requirements respecting arrears. You talk about lending requirements, and things of that nature.

Schedule 3 deals with prudential requirements. It is important, again, it talks about the liquidity, it talks about the lending requirements. You will see 3(1), for instance, is fairly specific. It says, "The maximum period for which a credit union can lend to any member is ten years."

And it also talks about the requirements for external borrowing and it "should not borrow an amount exceeding 10% of its total assets or fourtimes its retained earnings and its reserves, whichever is less."

I say, Madam Chair, that this is not just something which is just subjective. Remember, we are being guided by the World Council and the international best practice. And those have all filtered in to the sort of prerequisites for what we see as best practice in terms of our public legislation.

So, that is really the substance of the Bill. It is fairly comprehensive. I would say that probably the one challenge that I think there is . . . Bermuda is so small. It is sometimes hard to find people who do not have some sort of conflict in terms of to serve, and we only have a small pool. And that is why you see more and more, even with some of our local institutions, that they are having to put on their boards people of international background.

I think that is how you sort of widen, not just the gene pool, in terms of people and marriages, but I think that is how you widen your pool of those who can serve because otherwise that is sort of hard. Those who know certain areas—and credit union is not something which is so established that those persons who have served, you are excluding them in some ways from serving but for a period of time. And I think that is going to be probably the one area which I see could cause some challenges.

But I think having said that, it is good to aim for the stars and to seek to hit the stars in terms of trying to avoid even the perception of a conflict.

Thank you, Madam Chair.

The Chairman: Thank you, Minister Cox.

Does any Honourable Member wish to speak to Schedules 1 to 4?

The Chair recognises Mr. E. T. (Bob) Richards, the Representative for constituency 11, Devonshire East.

Mr. Richards, you have the floor.

Mr. Everard T. (Bob) Richards: Thank you, Madam Chair.

Just a brief comment. I noticed on Schedule 3, the prudential requirements, this is an area that I dealt with at some length in my initial presentation.

I noticed that there are a number of requirements—reserve requirements, liquidity requirements, lending requirements. And they are not that different, with the exception of the lending requirement—total lending requirement—than what was there before.

I guess the issue that we have on this side remains that it is nice to have these things in law, but the rubber meets the road when it comes to the application. I trust that the Government will apply these prudential requirements and the BMA will apply these prudential requirements as we see them here. But it is one of those things that, as one of the presidents of the United States once said, you know, You *trust,* but you *verify*.

So, we trust that these will be put in place, but we will be keeping a watching brief on this.

Thank you, Madam Chair.

The Chairman: Thank you, Mr. Richards.

The Chair recognises Mr. N. H. C. Simons, the Representative for Smith's South, constituency 8.

Mr. Simons, you have the floor.

Mr. Nelson H. Cole Simons: Thank you, Madam Chair.

Mine is simply a question in regard to the by-laws. My question is simple, and I refer you to Schedule 1, "Matters to be included in by-laws," item 1(1)(a).

Should a credit union wish to raise additional capital, not in the debt market, but as capital shares, and they would like to produce a prospectus to support their offering, would it be sufficient for them just to have it in their by-laws, or would the prospectus have to be approved by the BMA before a public offering can be requested from the general community?

Hon. Paula A. Cox: Madam Chair, I am not sure that this is particularly with Schedule 1. But I think that, certainly a public offering, . . . well, the credit union would be an offering to its members because it does not have . . . I think we dealt with earlier and even in the Committee of the whole House that it is to members, as opposed to the wider public. And I would think that that would be part of its by-laws and its constitutional charter documents.

I would think that, in terms of some of the criteria and the issues that it will include in the offering document, are issues that would have, under separate provisions, have had to have been blessed by the BMA in terms of some of the detailed terms of the offering. They would have been checked periodically under other powers of the BMA. And I would have thought that it would make sense for any financial institution, and certainly for a credit union, before you do something which is seen as substantive as opposed to just something which is seen as superficial and of less merit or less note, you certainly want to run it by your only and unitary regulator. I mean, you err on the side of caution.

And I have seen it in another place that even areas where you do not need as a company to have BMA Authority, just to err on the side of caution and you make sure, *Mr. Regulator, Madam Regulator, is this okay?* So I think any credit union—as any intelli-

gent entity—would want to make sure that it has got the blessing of its only regulator.

The Chairman: Thank you, Minister.

I thought that the only reference under which the Member might have been making that question was under Schedule 1(2)(1), but I did not know what else might apply at all.

Thank you, Minister for shedding some light on that.

Does any other Honourable Member wish to speak to the motion that schedules 1 to 4 be approved and stand part of the Bill?

If not, I shall put the question and move that the Preamble also be approved and that the Bill be committed to the House as accepted without amendment.

Those in favour of that motion . . . or, Minister, should I let you make the motion?

[Inaudible comment and laughter]

The Chairman: Those in favour of the motion signify by saying Aye. Those against say Nay.

AYES.

The Chairman:

[Gavel]

The Chairman: The Ayes have it. The Bill is approved without amendment and will be so reported to the House.

[Motion carried: The Credit Unions Act, 2010, was considered by a Committee of the whole House, approved without amendments, and will be reported to the House]

House resumed at 3:35 pm

[Hon. Stanley Lowe, Speaker, in the Chair]

REPORT ON BILL

CREDIT UNIONS ACT 2010

The Speaker: Is there any objection to the Report of the Committee as printed?

Agreed to.

[Gavel]

The Speaker: As per the further request of the Government Whip, and I believe Honourable Members have been informed, we now revert to order 3. Order 3: The Bermuda Immigration and Protection Amendment (No.3) Act, 2010.

I now recognise the Honourable Member, Mr. W. Roban.

Minister Roban, from Pembroke East, has the floor.

Minister?

SECOND READING

BERMUDA IMMIGRATION AND PROTECTION AMENDMENT (NO.3) ACT 2010

Hon. Walter H. Roban: Thank you, Mr. Speaker.

Mr. Speaker, I wish to move that the Bill entitled, The Bermuda Immigration and Protection Amendment (No.3) Act, 2010, be now read a second time.

The Speaker: Any objection?

Agreed to.

[Gavel]

The Speaker: Carry on Minister Roban.

Hon. Walter H. Roban: Thank you, Mr. Speaker.

Today I rise to introduce for the Second Reading the Bill entitled, The Bermuda Immigration and Protection Amendment (No.3) Act, 2010.

Mr. Speaker, since 2007 codification of the policies of the Department of Immigration with regard to the requirements for restricted persons or trusts who either own, benefit from, or facilitate the ownership of land in Bermuda to obtain a land licence, the Minister of Labour, Home Affairs and Housing has repeatedly requested that affected persons regularise their circumstances and apply for requisite licence.

Mr. Speaker, over the past three years the Department of Immigration and the Office of the Registrar General have collaborated to ensure that several information newsletters that detail legal responsibilities, background information and guidance on how a licence should be validated were circulated to the public and placed on the Department of Immigration's website.

Mr. Speaker, you will be aware that there have been a number of news reports and articles encouraging persons to be ready to meet the current deadline of 22 June 2010—which has, of course, already passed—or face prosecution. Further, you will be aware that as the deadline drew nearer the legislation generated much discussion and criticism.

As a result, the Minister responsible for Immigration consulted with a number of stakeholders, including attorneys in the community, in order to determine ways that might ease some of the concerns raised by Bermudian families affected by the current state of the legislation. Mr. Speaker, as you know there are many foreign spouses of Bermudians who are eligible to apply for Bermudian status under sec-

tion 19A of the principal Act and who have only recently done so. The normal processing time for these types of applications is three months.

For non-commonwealth citizens, who must be naturalised, the process is out of the hands of the Department of Immigration and takes much longer. It is not likely that these persons would have been granted their Bermudian status before 22 June 2010. Thus, they were in a position of having to apply for both status and a land licence.

Mr. Speaker, having considered these issues, and in a particular effort to assist those Bermudians married to non-Bermudians impacted by the 2007 amendment, the Minister responsible for Immigration has determined that an extension of the deadline until 31 December 2010 is appropriate. This extension will allow for the processing of status applications already submitted those granted will obviate the need for persons to obtain a land licence.

Another advantage to the Bermudian families is a small financial savings as they need only apply for the status application fee and not both fees.

Mr. Speaker, I recognise that this extension will also impact on other categories of persons, specifically those requiring land licences to regularise circumstances where either a licence was not originally needed (and the 2007 amendment imposed that requirement), or where attempts to circumvent the licence requirements were made and parties now realise the serious consequences of falling afoul of those provisions. These persons also benefit from the extension as, generally, the amnesty period is being enlarged throughout the detailed transitional provisions in Part II of the 2007 Act.

Mr. Speaker, through the tremendous efforts of the Attorney General personally, her Chambers and the drafting section specifically, we have been able to table this Bill in an extraordinarily short period of time. The provisions of this Bill are retroactive to the 22nd of June 2010 deadline—which, of course, has already passed—contained in the 2007 amendment.

Mr. Speaker, I reiterate, the plea of the Minister responsible for Immigration to those affected by this legislation is to act immediately to be in compliance with the law.

I will repeat that, Mr. Speaker, because I think that it is important to do so. I reiterate the plea of the Minister responsible for Immigration to all those affected by this legislation is to act immediately to be in compliance with the law.

Mr. Speaker, with those introductory remarks, I now move for the Bill to be discussed by this House.

Thank you.

The Speaker: Thank you, Minister.

I now recognise the Honourable and Learned Member, Mr. T. Moniz, Smith's West.

Mr. Moniz has the floor.

Hon. Trevor G. Moniz: Mr. Speaker, I would like to congratulate the Minister for reading that statement with such feeling.

[Inaudible interjections]

Hon. Trevor G. Moniz: I would like to acknowledge in the House today, Mr. Speaker, the presence of the Minister of Home Affairs and his Permanent Secretary, and the Chief Immigration Officer while this legislation goes through. And I thank them for being present today during this important piece of legislation, which I, and we, had requested some time ago, which is now being presented for debate.

We support, of course, as it follows my Motion in the House of two weeks ago, that this should be extended. And, you know, to repeat what was said in that earlier debate, Government had come back to this House early in the year knowing that it was unable to do certain things within the time period and had extended for a further two years that time period.

And at that point I had pointed out to the Government that this amnesty also needed to be extended. And, although the Government is not extending it for a further two years, at least they are extending it for six months, which does assist those people in the circumstances as set out in the statement the Minister read to the House—people with spouses who comply with the requirements to obtain a Bermuda status and who have applied too late, or qualify too late, so they have not obtained it by the time of the deadline.

This legislation was complex and difficult legislation and, you know, the reservations that were put forward by myself in 2007 when the original Bermuda Immigration and Protection Amendment Act containing this was passed . . . those reservations were that the legislation had gone further than it needed to go. At that time we were very concerned about the practice of fronting—there was a housing bubble—and, as I have said before, I tabled questions in this House for the then Minister of Immigration in 1999 dealing with the expanding problem of fronting, which was not being addressed.

That problem went on for some time until Government passed what is quite a draconian piece of legislation because it goes beyond mere fronting to address situations which involve parents and children and involves spouses. So it affects Bermudians with non-Bermudian spouses.

Before the legislation was passed the situation was, if a Bermudian had a non-Bermudian spouse, they only needed to obtain a licence for the spouse if they wanted their name to go on the deed for the property, but not otherwise. And when this legislation passed, there were rather complicated measures involving whether the non-Bermudian received a benefit and whether the non-Bermudian gave assistance towards a purchase, which sometimes it is very

difficult to judge. When you are in a family situation—certainly under our matrimonial law—whatever you do, you are deemed to be assisting. Whether you are working out in the workforce or whether you are working at home or whatever it is you are doing, you are assumed to be helping towards the family as a whole under our Matrimonial Causes Act. So it was difficult for lawyers to advise and difficult for clients to understand what the requirements of the legislation were—

POINT OF ORDER
[Standing Order 19]

Hon. Walter H. Roban: Point of order, Mr. Speaker.

The Speaker: Minister?

Hon. Walter H. Roban: I am not looking to be difficult here at all, but I have a point of order on the basis of Standing Order 19.

This is a very finite amendment we are making. It is not necessary for the Honourable Member—as much as I know that he would like to—to rehash the 2007 Act, or its rationale, or its reasoning, or the path thereof. We are doing a very finite piece of amending here—with which he has already said he agrees. I would hope that he can keep his discussions to the merits of the particular change we are making.

I appreciate his views on the 2007 Act—they have been heard ad infinitum—but if we can keep this debate specific to my amendment.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister Roban

Carry on, Mr. Moniz.

Hon. Trevor G. Moniz: Mr. Speaker, I have no idea what part of Standing Order 19 he was referring to, but this is all relevant to this debate and contains the history, as laid out by the Minister in his presentation. I am just trying to lay out part of that history, as well, as I am entitled to do.

Now . . . so, it was very difficult to deal with this. And I say all of that to say this for the Minister's edification—that Minister and the Minister from another place as well—because the other part of the equation is the request . . . my Motion that was debated two years ago was for the Government to review this, review the legislation as a whole.

I am urging on the Government that in the time available we should review this legislation in terms of varying it so that it is not so punitive upon groups where you have a situation where there is a presumption of advancement—as between parents and children. If a parent passes something to a child there is a presumption of a gift, which is a rebuttable presumption. And the house is going to end up in the property of the Bermudian children, as in the case of spouses.

Now, I know that my advice and the advice generally has been taken by the Ministry and the Minister in the sense that he is exercising his discretion, generally, in a broader fashion than hitherto fore, and that some of the more draconian aspects of this legislation are being ameliorated by the exercise of the discretion in a more relaxed fashion, enabling people to obtain licences. But I would, at the same time, encourage a revisit and a review of the legislation.

Part of the rationale for that is that when this legislation was brought in, there was a housing bubble, prices were through the roof. Since that time, of course, there has been a recession. Now I am told by those people in the industry that housing prices at the moment in Bermuda have gone backwards by some six years in terms of their value. So the house values today in 2010 are roughly what they were in 2004.

And we know from recent questions that have finally been answered after a lengthy period of time by the Ministry—I am sure they were very shy about it—but the number of work permits extant has dropped by thousands. And we know every day that people have lost their jobs in places like the construction industry and the retail industry, et cetera. We are lucky in Bermuda that the insurance industry is doing so well, which is maintaining this economy to a large degree. I think we need to revisit and review that.

I know the Bar have been making their own efforts and some of the difficulties they have I will not try to detail myself. But I know meetings have been held with the Minister, or his people, and the Attorney General, et cetera, to try and get it across. And the Bar will be seeking to be putting more general recommendations to the Government to get a comprehensive list of fundamental issues that need to be addressed with this legislation.

One wonders about the Government. I do not want to anticipate any matters that are on the Order Paper, but I understand that the Government is looking to change the law so that more non-Bermudians can purchase property in Bermuda. And that is particularly with respect to properties, condominium units within hotel developments. And you look at . . . there are a number right now of distressed hotel developments. We know that the Belmont and Newstead Group are distressed. Some of the others may be distressed, including the Reefs. And legislation is being brought forward that may assist those people in order to sell units to non-Bermudians.

You know, on the one hand here we have Government recognising the difficulties in the economy and the recession, and with tourism, and saying, *We are going to help people in the industry by making it easy to sell units to a broader market,* meaning non-Bermudians; whereas, on the other hand, here we are seeing a situation where it is being tightened up and we are constantly being preached at saying, *We have to stop non-Bermudians from obtaining property in*

Bermuda. We must save all this property for Bermudians and not allow non-Bermudians to have it.

So it is clear to us that Government is at sixes and sevens in terms of policy. And I say all that to say that I continue to urge the Minister to review the legislation, both for the reasons which I put forward, and for differing reasons which have been put forward by other groups. Some of them consider it a constitutional discrimination, a legal discrimination, the way that that law has affected people; some for economic reasons and some (the Bar) for some legal, more technical reasons as to producing good title.

When lawyers do a conveyance for someone they have to guarantee good title—that is the job that they do. And, under the law, many members of the Bar feel that it is going to be very difficult for them to say to a client that good title has been adduced. It is put into a somewhat gray and judgmental area. It is very difficult for a lawyer to know whether or not a licence might have been required under the 2007 legislation, and so it produces title issues generally.

So, we, therefore—I myself and we on this side of the House and I think Bermuda generally—approve of this extension to the amnesty period and trust that it will be utilised sensibly.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Moniz, the Honourable and Learned Member from Smith's West.

I now recognise the Honourable and Learned Member, Mr. M. Pettingill, from Warwick West.

Mr. Pettingill has the floor.

Mr. Mark Pettingill: Thank you, Mr. Speaker.

Mr. Speaker, I may say more than I said on the last occasion in this House in relation to this.

I have no difficulty with the fact, Mr. Speaker, that a motion was put forward by my honourable and learned friend, Mr. Moniz, for her Majesty's Opposition, the official Opposition, with regard to this matter and an extension, and that the matter was debated in this House and discussed by a number of Members on both sides, and that there was vote taken and that the matter went to another place. At the time the Government voted that they were not in agreement with the motion put forward by my honourable and learned friend, Mr. Moniz. That matter was aired out in the Senate, and now we are back here today. In fact, what is happening is that the motion that was suggested by my honourable and learned friend is being taken up by the Government. I have no problem with that.

Frankly, I think that, if anything, I can only have applause for the concept of that because that is probably good legislation—that is good legislative work. That is probably how Government should work. You hear things, you examine them, you look at them, you consider what the other side has to say and the way it is put forward, you discuss it and, if need be, you bring it back and say, *Yes, we have considered that and let's go ahead and do it this way. No difficulty at all.*

I think I made, Mr. Speaker, maybe a 90 second speech in this House on the last occasion. And my comments went along the lines of that if it was the Government's position that they were still looking at dotting i's and crossing t's, then I did not see what the difficulty was in supporting my honourable and learned friend's motion and having a review. That was the extent of the comments that I had to make both personally and on behalf of the Bermuda Democratic Alliance.

To be shamefully called out in another place—

Hon. Walter H. Roban: Point of order, Mr. Speaker.

The Speaker: Mr. Roban.

POINT OF ORDER
[Standing Order 19]

Hon. Walter H. Roban: The Honourable Member is bringing matters that were addressed in another place into this House. And I ask again for us to consider Standing Order 19(11), that the discussion should be specifically to the amendment that I am proposing to this House in this Bill.

I think that is . . . I am just merely asking that we focus. I appreciate where these Members may have feelings on issues; but that is not relevant to this Bill.

Thank you, Mr. Speaker.

The Speaker: Thank you Minister.

Carry on Mr. Pettingill, the Honourable and Learned Member.

Mr. Mark Pettingill: Thank you, Mr. Speaker.

It is entirely relevant to the Bill, Mr. Speaker, with respect. And I am glad that you had another further say on that because, of course, the Minister for this sits in another place. So, what he says in one hallowed Chamber echoes into another place, or wreaks into another place. But it certainly comes up to this place. And one has to pay attention to what he says.

And when an Honourable Member of this House, in relation to Honourable Members, gets accused of speaking on the basis of covering up for their own potential criminal liability, there is no way, in my respectful view, that this Honourable House or the Member who is speaking on behalf of the Minister in another place, can simply say, *Oh, we cannot mention that again.* That cannot be right.

I had hoped that in relation to this, at least—at the very least—there would be some form of subtle apology with regard to this.

I came out at the time and stood on the fact that . . . all I said was that maybe i's needed to be dotted and t's needed to be crossed. That was the extent of my comments with regard to the review. To be accused in another place, or have the comment made that perhaps I was making those comments with my learned friends who were in a different party to myself—but both lawyers—on the basis of potentially covering my own criminal liability was nothing short of outrageous!

To them, the fact that I had to publicly come out and say, *What? another trust lawyer* . . . and I have had nothing to ever do with a trust, or anything along these lines that even has a shadow over it, nor has my law firm—clearly spoke to that position. Clearly spoke to it. And that Members have personally spoken to me and referred to the fact—Members of both sides of this House—that the comments were outrageous and should not have been said. All I did was sit back and wait for a retraction, at least some form of humility, where somebody would say, *Well, yes, we looked at Mr. Moniz's position, we agree with it, that is why we brought it back here. And, no, Mark, Trevor, John* (as we tend to speak) *those things should not have been said. They were not becoming of a Minister of the legislation in any place.*

And I still would request, on the basis of what I said, that those comments should be retracted—particularly in light of the fact that the matter has been brought back to the House in the manner it is, that nothing can be said about me personally or my law firm, and that someone from the Honourable Government, if not the Minister himself, should have the courage and the fortitude—testicular or otherwise—to say, *those were not proper and right things to say in relation to you and other Honourable Members.*

That is my only point in relation to this. And I am still waiting. And, frankly, I think the rest of the country is waiting to hear that. It was wrong and it was improper.

For the rest of it, all I can say is I applaud the fact that we had the sensibility, as legislators of Government, to say, *Yes, okay, we looked at it and brought it back and will deal with it in this way.*

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Pettingill, the Honourable and Learned Member from Warwick West.

Any further speakers?

No further speakers. Minister Roban has the right to reply.

Hon. Walter H. Roban: With that, Mr. Speaker, I ask that the Bill be committed.

The Speaker: Is there any objection?

Agreed to.

[Gavel]

The Speaker: Will the Honourable Member from St. George's North, Dame Jennifer Smith, please take the Chair of Committee?

House in Committee at 4:00 pm

[Hon. Dame Jennifer Smith, Chairman]

COMMITTEE ON BILL

BERMUDA IMMIGRATION AND PROTECTION AMENDMENT (NO. 3) ACT 2010

The Chairman: We are now in Committee of the whole [House] on the Bermuda Immigration and Protection Amendment (No. 3) Act, 2010.

The Honourable Walter Roban, the Minister of Health and the Representative for Paget East, constituency 15, is the Minister in charge.

Minister Roban, you have the floor

Hon. Walter H. Roban: Thank you, Madam Chair.

I wish to move clauses 1 through 4. And I have an explanation for those clauses.

The Chairman: You may continue Minister.

Hon. Walter H. Roban: Thank you, Madam Chair.

This Bill seeks to amend the Bermuda Immigration and Protection Amendment Act, 2007, in order to extend the transitional period in relation to certain requirements under Part VI of the Bermuda Immigration and Protection Act, 1956, the principal Act, from the 22nd of June 2010 to the 31st of December 2010.

Clause 1 is the standard citation provision.

Clause 2 amends section 13 of the 2007 Act, definitions, by inserting a definition for "transitional period" and defining the period as the period "from the transition day (22 June 2007) until 31 December 2010."

Clause 3 amends section 14 of the 2007 Act by inserting a reference to the new transitional period. The effect of the amendment is a deferral of the need for a licence until the 31st of December 2010 by persons who acquired land without a licence under the former Part VI of the principal Act, or without any sanctions having been granted under the Acquisition of Land by British Subjects Restriction Act, 1948, or the Alien Act of 1926, or any Act replaced by that Act, and where that person was not a restricted person under the former Part VI or an alien under any Acts listed at the time the land was acquired or conveyed.

Clause 4 amends section 15 of the 2007 Act, persons entitled to a licence for land held on the transition day, to insert references to the new transition period. The effect of the amendments are that persons who hold the land who are entitled to a deferral under section 14, and who apply for a licence be-

tween now and the 31st of December 2010 shall be granted a licence if the Minister is satisfied that they are so entitled.

Further, Madam Chair, corporations who hold land acquired for a specific purpose provided for under another statute before the transition day and which continue to hold such land exclusively for that purpose, and which apply for a licence between now and the 31st of December 2010, shall be granted a licence by the Minister, notwithstanding any non-compliance by that corporation under the former Part VI.

Thank you, Madam Chair.

The Chairman: Thank you Minister.

Hon. Walter H. Roban: That is for clauses 1 to 4.

The Chairman: Yes.

Does any Honourable Member wish to speak to the motion that clauses 1 to 4 be approved and stand part of the Bill?

If not, I will put the question.

Those in favour of the motion that clauses 1 to 4 be approved and stand part of the Bill signify by saying Aye. Those against, say Nay.

AYES.

The Chairman: The Ayes have it. Clauses 1 to 4 are approved and stand part of the Bill.

[Motion carried: Clauses 1 to 4 passed]

The Chairman: Minister, you may continue.

Minister Roban.

Hon. Walter H. Roban: Thank you, Madam Chair.

With that I move that the Preamble and I move that the Bill be reported—

The Chairman: Excuse me? I have clauses up to clause 8.

Hon. Walter H. Roban: What?

Oh, I am sorry.

The Chairman: Yes.

Hon. Walter H. Roban: My apologies, Madam Chair.

The Chairman: I mean . . . you would have, you know, half a Bill.

[Inaudible interjections and laughter]

Hon. Walter H. Roban: My sincere apologies, Madam Chair.

I now move clauses 5 to 8.

The Chairman: Thank you.

Hon. Walter H. Roban: Sorry.

Clause 5 amends section 16 of the 2007 Act, application respecting land subject to court proceedings, to insert and reference the new transitional period. The effect of the amendment is that where a restricted person applies for a licence to acquire land and proceedings were brought in respect of the land challenging the Minister's policy for issuing licences under the former Part VI before the transition day, and the application for the licence is made between now and the 31st of December 2010, then the Minister may, in his absolute discretion, grant or refuse the application.

Clause 6 amends section 18 of the 2007 Act, validation of licences issued under the former Part VI, to insert references to the validation of licences during the transitional period. The effect of this amendment is that licences issued under the former Part VI, which are validated by the Registrar General between now and the 31st of December 2010, are deemed to be licences issued under the new Part VI, provided that other statutory conditions are met.

Should a licence issued under the former Part VI not be validated by the 31st of December 2010, it shall still be deemed a license issued under the new Part VI.

Clause 7 amends section 19 of the 2007 Act, Madam Chair, registrations and register, to insert a reference to validation of registration during the new transitional period. The effect of this amendment is that a registration of the acquisition of land by a restricted person is pursuant to section 88 of the former Part VI and is deemed to be a registration of the acquisition of land by a restricted person under section 102 of the new Part VI when validated by the Registrar General, as long as it is validated within the transitional period (now ending the 31st of December 2010).

Clause 8 amends section 21 of the 2007 Act. Section 21 prevents criminal prosecutions in respect of offences committed under sections 76 to 81 of the principal Act in relation to land acquired, held, or appropriated by restricted persons for three years from commencement of the 2007 Act. That three-year amnesty is now extended to the end of the new transitional period, the 31st of December 2010, Madam Chair. The effect of this amendment is, therefore, that there shall now be no criminal prosecutions launched before the 1st of January 2011.

And that is clauses 5 through 8, Madam Chair.

The Chairman: Thank you Minister.

Minister you have to move clauses 5 to 9 because while your explanatory document does not talk about clause 9, there is a clause 9 in the Bill—

Hon. Walter H. Roban: Yes, there is.

The Chairman: —and so you have to also move clause 9.

Hon. Walter H. Roban: May I move clause 9 now, Madam Chair?

The Chairman: Yes, you may.

Hon. Walter H. Roban: And I will then describe the clause if you allow.

The Chairman: Please do.

Hon. Walter H. Roban: Thank you.

Clause 9 provides the operative date of this amendment Act as the 22nd of June 2010, making this Amendment retroactive to June 22 2010, ensuring that there is no gap between the end of the transitional period provided by the 2007 Act and its extension by this amendment Act to the 31st of December 2010.

That is clauses 5 through 9, Madam Chair.

Thank you.

The Chairman: Thank you, Minister.

It has been moved that clauses 5 to 9 be approved and stand part of the Bill. Does any Honourable Member wish to speak to that motion?

If not, I will put the question.

Those in favour of the motion that clauses 5 to 9 be approved and stand part of the Bill signify by saying Aye. Those against say Nay.

AYES.

The Chairman: The Ayes have it.

[Motion carried: Clauses 5 to 9 passed]

The Chairman: Minister you may now move the Preamble and that the Bill be committed to the House as approved without amendment.

Hon. Walter H. Roban: I so move, Madam Chair.

The Chairman: Those in favour of that motion signify by saying Aye. Those against say Nay.

AYES.

The Chairman: The Ayes have it. And the Bill is approved without amendment and will be so reported to the House.

[Motion carried: The Bermuda Immigration and Protection Amendment (No. 3) Act, 2010, was considered by a Committee of the whole House, approved without amendment, and will be reported to the House]

House resumed at 4:10 pm

[Hon. Stanley Lowe, Speaker, in the Chair]

REPORT ON BILL

BERMUDA IMMIGRATION AND PROTECTION AMENDMENT (NO. 3) ACT 2010

The Speaker: Is there any objection to the Report of the Committee as printed?

Agreed to.

[Gavel]

The Speaker: The Government Whip has further advised me that those are all the Orders that the Government will be taking up today.

And I have further been advised that Order 14, the second reading of The Court of Appeal Amendment Act, 2009, in the name of the Honourable and Learned Member, Mr. J. Barritt, is going to be dealt with.

And before I recognise him, the Deputy Speaker will step in.

[Hon. Dame Jennifer Smith, in the Chair]

The Deputy Speaker: We are now on Order 14, the second reading of The Court of Appeals Amendment Act, 2009, under the Shadow Minister, Mr. John Barritt.

Mr. Barritt.

SECOND READING

COURT OF APPEALS AMENDMENT ACT 2009

Mr. John Barritt: Thank you, Madam Deputy Speaker.

I move that the Bill entitled The Court of Appeals Amendment Act, 2009, be now read the second time and committed.

The Deputy Speaker: You are going to now speak to it?

Mr. John Barritt: Yes, I will now speak to the principles, but I made the motion and was waiting to hear, Madam Deputy Speaker.

The Deputy Speaker: Thank you, you may continue.

Mr. John Barritt: First of all, Madam Deputy Speaker, you will notice that we have been overtaken by time, and the Bill is entitled, The Court of Appeals Amend-

ment Act, 2009. In fact, I will move, at the appropriate stage, an amendment that that be changed to No. 1, 2010.

The Deputy Speaker: Yes.

Mr. John Barritt: And I am having that copied, so just to let Members know.

The Deputy Speaker: So noted.

Mr. John Barritt: Madam Deputy Speaker, I do not intend to be long on this particular Bill. I do not think there is a need to be. It has been on the Order Paper for some time. It is not the first time it has come to the House of Assembly.

I have been pushing for some time now for a review in this particular area and for a change in the law. And this dates back—I am sure that members of the community are aware, as I am sure Members of the House are acutely aware—to the Rebecca Middleton murder and the subsequent case that arose out of that, wherein the trial judge ruled that there was no case to answer. And the situation was that the prosecution—try as they may—were unable to appeal that because there was no right of appeal on fact under the Court of Appeals Amendment Act.

As astonishing as the decision may have been to the Privy Council, it went all over the Privy Council, they recognised that without a change in the law, there could be no review of that decision.

There have been a number of cases since—not all of them to do with murder or attempted murder, some of them have been in cases of sexual assault as well—where decisions have been taken and accused have been acquitted and the prosecution is stymied in law from launching an appeal because the prosecution does not have the same right of appeal that the defence does under our current law. That is, the Court of Appeal Act, Madam Deputy Speaker.

And as the explanatory memorandum says, "The purpose of this Bill is to give the Crown [that is the prosecution] the same right of appeal as defence council in criminal cases." What that means is that they not restrict it to appealing just on matters of law; they can appeal on matters of fact, as well as matters of fact and mixed law (as it is put).

And, Madam Deputy Speaker, I want to say this as well: My Bill in no way seeks to limit the scope of an appeal either to a particular offence or by time. It simply allows for these appeals to be launched in cases where the prosecution thinks it appropriate.

Now, they may make the decision in the first instance, Madam Deputy Speaker—that is, the prosecution—that they wish to launch a right of appeal where there has been an acquittal or the judge has found that there is no case to answer. But it is not their decision that will be the ultimate . . . they will not be the ultimate arbiters of whether or not an appeal should go ahead. In fact, as this Bill indicates, it will only be with the *leave* of the Court of Appeal. So that those three wise heads, Madam Deputy Speaker, will decide on the basis of what is presented to them whether it would be just, and that justice would be served, by allowing an appeal where there has been an acquittal.

And in so doing, a body of precedent will start to emerge as to what is or may not be appropriate. And I did not want to, and we on this side did not want to, in any way limit that because you cannot necessarily foresee every possible incident or example that might occur.

The obvious one, Madam Deputy Speaker, is where there might have been fresh and compelling new evidence that has come to light. That might be an obvious example. It might be a case where prosecution simply feels that a judge got it wrong. And, as respectful as I am of judges, and respectful of the jobs that they perform, I think that even they would admit sometimes that they do make mistakes from time to time. Indeed, that is why you have appellate courts, so that decisions can be reviewed. And, as you know, in this land you can go all the way, if you so desire and you feel strongly enough and you have the funds, all the way to the Privy Council in London to make an appeal.

We think that the time has come, as other jurisdictions have moved in this direction, to allow the prosecution the same rights of appeal as the defence. Because, as I say, there is no need for me to list the legion of cases—some of the bigger cases, of course, are the ones that get the headlines and they involve murder where there have been acquittals, acquittals where judges decided that there was no case to answer. And I am not going to quarrel; I do not want to get into the detail of those cases of whether they were right or wrong. I am saying that they ought to be reviewable.

They ought to be reviewable, in the appropriate case, and have those three wise heads look there. And I think it only enhances justice. The expression "Justice must not only be done, but it must be seen to be done." And the community must feel that they have an opportunity and that the prosecution of this country on behalf of the people . . . in the United States, of course, they call it "the people versus So-and-so." The prosecution represents the crowd; people feel that justice has been served, and that every reasonable avenue and opportunity has been taken in order to ensure that justice has been served.

Madam Deputy Speaker, those are my opening remarks. And I commend the principle—the principle—and the legislation to Members of the House.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Barritt.

It has been moved that The Court of Appeals Amendment Act, 2009, be committed.

Does any Honourable Member wish to speak to that motion?

The Chair recognises the Honourable and Learned Trevor G. Moniz, the Representative for Smith's West, constituency 9.

Mr. Moniz, you have the floor.

Hon. Trevor G. Moniz: Thank you, Madam Deputy Speaker.

I rise to my feet as Opposition spokesman for Justice and Shadow Attorney General to give support to my honourable and learned colleague, Mr. Barritt, who has done much work in putting this thing together—this Court of Appeals Amendment Act.

I think he is on the right track. This follows comments out of the Privy Council, et cetera, talking about some of the astonishing decisions that were made in cases here in Bermuda. And, you know, it is always one of those things with respect to judges' decisions, judge's and jury's decision, the idea is that if I am wrong as a judge, or if I am wrong as a jury, it can be sorted out in the court above. And that is the purpose of it. That is the purpose of the three wise heads in the Court of Appeal, and the greater number of wise heads in the Judicial Committee of the Privy Council.

That ensures that there is balance and fairness in the decisions that come before us. And we have seen in a number of cases that that fairness was not being produced. I myself have commented on a number of occasions where cases that have come before the jury, where the evidence seems completely overwhelming, and the jury will acquit. And those are very disturbing cases.

Even more disturbing cases are cases where the judges throw the cases out, and they seem to have made a terrible mistake, and under our law the Court of Appeal did not have the right to intervene and to either correct the mistake or to send it back for retrial. And that is what happens in many of the cases. The position of the jury is not one that is pre-empted by the Court of Appeal; normally the case is sent back for a retrial.

[Inaudible interjections]

Hon. Trevor G. Moniz: Madam Deputy Speaker, it is getting very noisy in here. I do not know if Members think it is time to play games on a Friday afternoon, but they are behaving like children on that side, I am afraid.

The Deputy Speaker: Continue to address the Speaker.

Hon. Trevor G. Moniz: Exactly, Madam Deputy Speaker, they are not children. They should not behave like that.

It is a very serious matter. And this Bill, I feel, gives a broadness to the amendment that it truly deserves.

I noted in the UK there was a very famous case likewise where some youths who stabbed and killed—white youths, in that case, who stabbed and killed a black youth—got off in a jury trial. And the law was in fact changed. And it was changed so the Court of Appeal . . . it could be sent for a retrial. And that was about the same time as the Middleton murder here, which was back in 1996, which racially was the reverse—it was two black young men who were involved in killing a white tourist.

Unfortunately, as we know from recent events race tinges everything here in the political realm to make excuses for not doing what one should be doing. But, in this case, we should be looking at what is the fairness of the situation. And the fairness of the situation here, obviously, is to give the prosecution the like—as in the same—right of appeal as the defence would have so that both sides are treated equally.

At the end of the day, society must be satisfied that justice is done. I think the average, person from their own observation, cannot be satisfied with the number of cases that get acquitted in Bermuda on criminal charges where there certainly appears to the public to be overwhelming evidence that these cases should be subject to review by the Court of Appeal. It is difficult for one to say as a member of the public, reading or hearing reports in the news, not having attended every minute of the trial. There are certainly cases that seem to be begging out for review.

This Bill, put forward by my honourable and learned colleague, Mr. Barritt, would allow the opportunity for that review by our Court of Appeal. And I cannot see how any right-thinking person of this community—and, especially of this House—or any Minister, could possibly vote against or speak against such an action. I expect today that we will see a lot of people sitting in their chairs because they cannot mount any defensible argument against passing this Bill today.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Moniz.

Does any other Honourable Member wish to speak to the motion that The Court of Appeals Amendment Act, 2009, be now committed?

The Chair recognises the Honourable and Learned, Mr. Mark Pettingill, the Representative for Warwick West, constituency 28.

Mr. Pettingill, you have the floor.

Mr. Mark Pettingill: I am obliged, Madam Deputy Speaker.

I anticipated that Members in the Government would be jumping to their feet to speak sensibly with regard to this legislation because it is extremely commendable, one, that my honourable and learned

friend, in having championed this particular issue for some time, has been prepared to draft a Bill and bring it forward for Honourable Members to consider, particularly as it is one of areas in which he has expertise and which he is practiced, and in which he has looked at the situation that we have in this country for a long time.

It mirrors, in fact, the type of legislation that has developed in Britain and in the Commonwealth. It is a sensible approach.

I often say, Madam Deputy Speaker, that one of my favourite figures to look at is the actual imagery—the Statue of Justice. And one of the things she holds in her hand is that scale. And it is important to have the balance that justice holds in its hands. And we, as legislators, have to give to the system that particular balance, Madam Deputy Speaker.

Tthis is the way—by this type of legislation—that we go about it; that things are, as much as possible, subject to review. And the balance is that they are subject to review in regard to prosecutions and they are subject to review in regard to the position of the defendant. And that all of those matters, because of the extent of the justice system and because of the extent of our laws, and because of how evidence may be treated, and because of the fact that evidence may be ruled out on the basis that it is more prejudicial than it is probative, all of these things should be subject to proper review by more wiser heads, let us say, at every stage of the game.

Certainly, the modern development of the law has been that this is a correct and sensible path to proceed down. All that my honourable and learned friend, Mr. Barritt, has done by bringing this is follow along with the judicial school of thought that is existing in other jurisdictions and is, candidly, a sensible way to approach this area of the law—particularly in light of the fact that we have to listen to the greater minds in the law.

When the Privy Council, where we have to go to have appeals, where governments and defendants and prosecutions will want to run off to when they can because there are a number of wise heads that will sit there, up to seven Justices, who will review and comment . . . we have to listen very carefully to what they are saying. And when they make comments with regard to a decision in our Courts that a trial has been brought to an end on the basis that there is no *prima facie* case, on the basis of looking at the evidence—when the Privy Council reviews something like that and says it is "flabbergasting," "astonishing that the learned Judge dealt with it in this manner," that is a direct message to this Honourable House to say that we need to review the law in that area.

Because, in part, that is how this has all come about, I think, with regard to what my honourable and learned friend, Mr. Barritt, has done and with regard to the school of thought that lawyers, like myself and others have, we have to listen to what is being said. And the Judges, and the Court of Appeal Justices, and the Justices in the Privy Council, Madam Deputy Speaker, send us these messages. And they are not always that subtle.

There is nothing cryptic or subtle about saying "it is astonishing that the Judge did that." One just has to look at that and say, *Okay, well maybe we need to look at the law in that area and say that it should not happen that way. And that we have to be very careful about what we do because justice is not really served if that can just happen and there can be no review.*

I respectfully submit to Honourable Members, Madam Deputy Speaker, that it is very difficult in the interest of justice to argue that there should not be a review of a decision. Of course, this cannot be exhaustive, but it has to be something that has the potential to be as thorough as possible, to at least climb the available ladder of review with regard to appeal. And, if one is blocked from climbing the available ladder of review on appeal, then, clearly, this could lead to injustice or, even more importantly, lead to the perception of a miscarriage of justice; which, of course, then becomes the reality to the lay person who does not see justice being done.

So, I urge upon Honourable Members of the House to look at what is being presented, understand that my honourable and learned friend has put something forward that has a mass of jurisprudence and judicial review behind it for consideration by this House; a mass of judicial review and legal thinking behind it has gone into the Honourable and Learned Member's piece of work in crafting this Bill for presentation here.

It is not the law, with great respect, according to Barritt. It certainly is a very good presentation and summary of what the school of thought is by the great minds. And what I mean by "the great minds," Madam Deputy Speaker, the people that write the books—the Law Justices, the people that write books, like *Blackstone's* and *Archbold,* and all of the reference guides that we use.

My honourable and learned friend is reflecting on the comments of the best authors of the law, the best and wisest minds in the justice system, in order to present this Bill to this Honourable House. And, with great respect, who are we to say we dismiss that? We are talking about the enhancement of justice. And justice has to be seen to work for everyone, on every side.

So, if Honourable Members are not prepared on the Government's side to stand up and say, *Well, this is what is wrong with this Bill. This is why we do not support it. This is our judicial thinking. This is what some great legal mind has said to urge us away from the Bill* presented by my honourable and learned friend, I mean let us at least hear that.

At least this Bill deserves the recognition of being commented on by Honourable and Learned Members on . . . by Honourable Members on the other

side. I do not know if there are any Honourable and Learned Members in the House on the other side right now. I do not see any. But, I would certainly expect them to be here if they were going to consider this as well, or at least for my honourable friends on the other side, to be getting some direction with regard to it so they really understand what it is about and what the position is in law, so that at least they can speak to it, Madam Deputy Speaker, with some knowledge with some understanding. Because if they truly do that and they understand what the real legal position is, I do not see how they could not support this particular proposal with regard to amending our laws.

How credible is it for our country, for our legislation, if Members on the Government Benches are prepared to acknowledge and accept the work that is done by a Member of Her Majesty's Opposition with regard to improving the laws of our land. What more could we ask for than that type of work?

I mean, to my honourable and learned friend's great credit, that really is working in the interests of the country, to put forward something, Madam Deputy Speaker, which is for the betterment of our justice system. I congratulate my learned friend for doing this, and I am very pleased to support it. I am very, very pleased to support it. I very am pleased with regard to the amendments that it is suggesting.

As I say, Madam Deputy Speaker, I do not honestly see why Members would not want to speak to it. Because, surely, if you do not want to support it, that is one thing; but to merely stick your head in the sand and pretend like it is not happening is candidly somewhat insulting to us as legislators. To say that we do not give this any credence and we do not give any credence to the background that has actually gone into presenting the Bill to the House in this manner.

Certainly, Madam Deputy Speaker, the Bill is requiring that it be a position of leave. That, again, is a position with regard to a review of what the situation is. So it is not like someone can stroll up willy-nilly and say, *Oh, we just want to challenge this, and we want to challenge that.* It has to do with sufficiency, Madam Deputy Speaker, and these are all particular legal aspects that have become immersed in our law over numerous years that form part of jurisprudence, that form part of the analysis of what has gone on in another courtroom.

My honourable and learned friend, Mr. Moniz, has said, well, sometimes the public—they do not really get it, they do not understand. It appears to be the case that, perhaps, someone is being acquitted when they think that there is a whole world of evidence that exists against them and that they should not have been acquitted. Or that someone has been convicted in circumstances where, perhaps, they should not have been. And those are the types of things that go on.

And sometimes we have a jury where—in what appears to the public to be a case of overwhelming evidence—they acquit. And people want to ask questions. And people do ask questions, *How could this have happened? Something is wrong in the justice system that has allowed for this to happen.*

When people have that type of view—when the common man looks at the justice system and in his very gut, Madam Deputy Speaker, in his core he does not feel that justice is done, and he does not feel that justice is seen to be done, we need to hearken to his feelings on that.

That is why we have juries of lay people who have to look at things, understand our law and then rule on the facts—but they are lay people. And we have to listen. And all of the great jurists of the world, Madam Deputy Speaker, in dealing with issues of what is fair and what is right always turn to the test of reasonableness. The test of what, as is termed in law, the common man on the Clapham Omnibus (but for the sake of Bermuda we will say, the common man on the bus to Dockyard) . . . how does he feel about this? What is his view?

And the greatest, wisest jurists, justices, take their minds to that—how would he feel about this law? How would he feel that it works? Would he feel the balance of justice and that it is working for him? That justice is done for his brother and his sister. That justice is done for the families of the victims of a crime. When he looks at it, does he feel that justice is done for the victims' families of crime?

And if his answer is, *I do not feel justice work there,* then we have a problem.

And if their Lord Justices in the Court of Appeal and their Lord Justices in the Privy Council in England look at cases that we do in Bermuda and say rhetorically, *How can the man on the bus to Dockyard feel like justice has been served with this type of ruling—that is astonishing . . .* We need to listen because the only people, Honourable Members, Madam Deputy Speaker, that can bring about that change—the only people that can give the man on the bus to Dockyard—the common man of the country—the feeling of justice, that justice is working for him, is *us* right here, the Members in this Honourable House.

So, we have to turn our minds—all of us—wisely with humility (not an easy word, sometimes, for Members of this Honourable House to use) but with individual humility, put ourselves on that bus riding home. There are not many of us that take it, but we have done. Put ourselves right there in that place, in that man, and ask, *Are we serving him by giving him the law that makes him feel that justice is being done?*

If our honest answer to that is no, then we need to bring about the change right here.

What the Honourable and Learned Member in Her Majesty's Loyal Opposition has presented is the ability for this House to give to the common man that sense of justice that he wants, that he has a right to

demand—a Bill that speaks to all of the victims' families, and the victims themselves, some of them past, many of them past, but it speaks to their justice; that there is a better way that we can approach this, that that better way of approaching it is based on the comments from the great wise minds in the law, both in Bermuda, and particularly at a higher level overseas in the United Kingdom in the Privy Council, that that level of justice comes from a great school of jurisprudence, from a great school of law, from an observation of trials throughout the ages to bring us, Madam Deputy Speaker, to a better place in the law.

The law has to grow, the law has to evolve, and the law has to change. The law that related to the admissibility of evidence in 1907—the founding year of our criminal code—cannot apply in the same way today because of the advent of technology and DNA and medical science and all kinds of things. It must be malleable, it must change. And we must find ways to look at it. As Plato said, the essence of wisdom is to recognise your own ignorance.

My honourable and learned friend presents a Bill without a criticism to anyone. It is not a criticism. Law is never a criticism, it comes from a direction. The Honourable and Learned Member, Mr. Barritt, presents a Bill imploring Members to say this is the evolvement of our law that will serve our people well. That is what this is. It is a simple evolution of law.

As I said, it is not the law according to Barritt. One has to say, *Well, what is it based on?* and look at it and take the opportunity to read it and say, *What does this mean?* This should not be a political football. This is not a political football; this is about good law, about real justice—

An Hon. Member: Doing what is right.

Mr. Mark Pettingill: —about real integrity, about moving down a road that we need to go down, about the evolving role and the evolving road of the law.

But, as I say, Madam Deputy Speaker, the only people that can breathe life into justice in changing the law are Members of this Honourable House. We are the only ones that can breathe the life into it. And sometimes ego has to be put aside. It has to be put aside and say, *Okay, here we go*.

Sometimes what happened today in relation to like, *Yes we are going to have a review even though we did not agree in the first place but we have looked at it* . . . that is a wise thing. Come back and say that is the way we are going to do it. Look at lack and say, *Yes, we have listened. We do not have this quite right so we are going to amend it.* That is the very best of leadership. That is the very best of wisdom.

So, if wise heads prevail today, everyone should embrace this for what it brings to our table in the interest of justice. And those words are words that are often used in a courtroom, "What is in the interest of justice?"

One of the things, Madam Deputy Speaker, that one always has to turn one's mind to when we speak of justice is looking at that document that I love all so well, and quote many times in this House, is the Constitution Order of Bermuda. And section 6 speaks about fairness, that everyone is entitled to fairness. And that includes not only the defendant, but the victims and the families of defendants, the families of victims, jurors, judges, lawyers—all people in the system. If we are seeking a fairer way, then that is a better way. It must be.

So, unless someone can stand up and say well, *With regard to this Bill put forward by the Honourable and Learned Mr. Barritt, it strikes me as unconstitutional; or, it strikes me as being unfair in law; or, it strikes me as serving no purpose, and my authority for saying that are the words of the Privy Council here; or, the words of the Court of Appeal here; or, the words of the Chief Justice here*, *and that is my authority that this is not a good piece of legislation,* then let him stand and speak! Because I am unaware of anything like that that gives that type of direction.

So, who are we, Honourable and Learned Members and Honourable Members alike, to say we will not agree, we will not agree on something that can only be in the best interest of justice and in the best interest of the people of this country that put us here? Madam Deputy Speaker, who are we to say that?

Honourable Members should stand, commend this piece of proposed legislation, support it and vote for it. And let us do a good job here today with regard to providing something that is truly in the best interests of justice in our country.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Pettingill.

Does any other Honourable Member wish to speak to the motion that the Court of Appeals Amendment Act, 2009, now be committed?

The Chair recognises the Honourable and Learned, S. G. Crockwell, the Representative for Paget West, constituency 19.

Mr. Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Thank you, Madam Deputy Speaker.

I am very pleased to speak on this Bill and would like to applaud the Honourable and Learned Member who brought this Bill to the House for our consideration, Madam Deputy Speaker.

I believe that it is paramount and critical that we get it right and that we have a judicial system in this country that is responsive to the needs of the people, and that is responsive to ensure that the interest of justice at all times is the paramount consideration. And, Madam Deputy Speaker, as my honourable and learned colleague, Mr. Pettingill, who just

took his seat, said, and said eloquently . . . and I do not know how much I can add to his remarks, but what we are attempting to do today is to ensure as we go forward that we do not have miscarriages of justice, Madam Deputy Speaker.

And I know that the counter-argument is, *Well this may go against the aged principle of double jeopardy, and individuals who are acquitted should not have to face trial again*. But the reality, Madam Deputy Speaker, is that judges can make mistakes. The reality, Madam Deputy Speaker, is that juries can get it wrong for various reasons.

We have a responsibility, we have a duty to ensure that individuals who are victims of crimes—and not just certain crimes, individuals who are victims of all crimes—have access to justice. And I do not understand why we as a jurisdiction find ourselves always behind in these areas, Madam Deputy Speaker.

This is not the first piece of legislation that is well behind other jurisdictions. I can speak to PACE, which was about 20 years behind, which now we recognise was important in order for us to obtain the best judicial system that we have in Bermuda.

But this is another piece of legislation that would allow us to catch up and to modernise our judicial system so that we can ensure that those that come before our courts are going to have the right opportunity for justice to be served.

The question is, What is this Bill attempting to achieve? And I think that it is clear. And I am loath to understand what any opposition to this can be. But it will give the Crown, or prosecution, the opportunity—actually put them on par with defence attorneys (and you just had an eminent defence attorney take his seat in supporting this). So there does not seem to be, across the board, any disquiet about this particular amendment. But it allows the Crown to be able to appeal based on a question of fact and law, or mixed law, in the event that a judge and/or a jury got the decision wrong.

The question is, What is wrong with that? Because you know what? I would like to ask any Honourable Member in this House . . . and I am going to pick on an Honourable Member that I have a good relationship with, and that is the Honourable Member Mr. Wayne Furbert. Because I would like for the Honourable Member, Mr. Furbert, to speak to this because what would happen—

[Inaudible interjections]

Mr. Shawn G. Crockwell: —I said I would like, Honourable Member.

I would like for . . . because he is a friend of mine, and I know that the Honourable Member—

[Inaudible interjections and general uproar]

Mr. Shawn G. Crockwell: I know that the Honourable Member, Mr. Furbert—

[Inaudible interjections]

Mr. Shawn G. Crockwell: No, absolutely not. I have many friends on the other side—

[General uproar continues]

Mr. Shawn G. Crockwell: But I will tell you, the Honourable Member, Mr. Furbert, and I have had numerous conversations about a person that he holds dear to his heart. And that is his daughter. He loves his daughter—

An Hon. Member: I love my daughter too.

Mr. Shawn G. Crockwell: Madam Deputy Speaker, and all of us who love our children . . . all of us who love our children, our grandchildren, our family members, our neighbours, the question is this—that I would like to pose to my honourable colleagues.

If an individual goes before the courts, and how the law is constructed right now, Madam Deputy Speaker, there could be a mistake that is made during that trial and the defendant is acquitted on a technicality. The defendant is acquitted on a technicality.

Let us have a hypothetical [situation], and let us say that a sexual offender, Madam Deputy Speaker, goes before the courts and that individual is acquitted based on a technicality and the Crown is prevented from bringing an appeal. I would like to ask Honourable Members in this House how would they feel if their child became the victim of that particular sexual predator because we did not pass this piece of legislation? That is my question today.

Because we are not just talking about finding justice for the victims that are before the court; we are talking about ensuring that individuals who have offended the law, who may be violent, who may be a threat to this community, we want to make sure that if they are guilty that they are put away, Madam Deputy Speaker. And that the Crown should have every opportunity to explore and ensure that that happens.

And if we go through the process, Madam Deputy Speaker, and that individual is found to be not guilty, then so be it. Justice would have been served.

[Inaudible interjection]

Mr. Shawn G. Crockwell: Now, the Honourable Minister of Education says that we have a piece of legislation. And I will support that piece of legislation when we debate it, which is the Court of Appeals Amendment Act 2010.

But this piece of legislation is different from what we are discussing today. This legislation has some restrictions, it only deals with certain offences,

Madam Deputy Speaker, and it does not afford the Crown the same type of authority that we are trying to achieve today.

So, to me, it makes prudent sense that if we have before this Honourable House right now a piece of legislation that takes us forward to ensure that we are effectively modernising our judicial system, that we are effectively trying to augment and improve how we achieve justice in this country, that if we pass this Bill in addition to the Bill that is coming before this House in due course, that we will be serving the people of this country well.

This enhances what is coming. And I really think that there is an opportunity, Madam Deputy Speaker, today for the Members of this Honourable House to put aside politics and rise to the occasion and demonstrate to Bermuda that we are going to pass laws that we believe serve their interests. I think there is an opportunity today for us to say to Bermuda that we are not going to do business as usual, but that we are going to step outside of the norm and we are going to do something to champion their cause.

I think that Honourable Members should pause and consider the opportunity, and not just react in a way because it appears as if Members from the other side will not be taking part in this debate. And I find that disappointing because there are intelligent Members on the other side who, I am sure, appreciate the efficacy of this Bill.

You know, Madam Deputy Speaker, we have seen a plethora of legislation in the last few months come before this House—legislation dealing with the Jurors Act. We have seen legislation dealing with the Firearms Act; we have seen legislation dealing with the Bail Act. We have had a Government that has stood up and said that they are taking the rising crime in this country seriously, which has risen, if my Honourable Colleague, Mr. Pettingill, can remind me of the percentage—

Mr. Mark Pettingill: One hundred and thirty five.

Mr. Shawn G. Crockwell: One hundred and thirty-five per cent!

Mr. Mark Pettingill: In eight years.

Mr. Shawn G. Crockwell: The rise in crime has gone up by 135 per cent in the last eight years—

Mr. Mark Pettingill: That is a Government statistic.

Mr. Shawn G. Crockwell: —which is astonishing!

We have a crisis in this country when it comes to crime. Now, we have gun violence in this country on a daily, if not weekly, basis, Madam Deputy Speaker. And now we have become immune to it.

The Honourable and Learned Member, Mr. Barritt, said today that road fatalities—which far outnumbered murders per year—are almost on par.

An Hon. Member: That's right.

Mr. Shawn G. Crockwell: Now, almost on par!

We have had, what, 10 murders in less than 12 months; and we have seen a plethora of legislation come before this House to tackle crime. And this piece of legislation would ensure that those who are perpetrating those crimes could get their due course, and we are getting silence from the Government?

An Hon. Member: Shame!

Mr. Shawn G. Crockwell: That is despicable, Madam Deputy Speaker.

It calls into question the motives of the other pieces of legislation, because they all work in tandem, they all weave into what we are trying to provide. And that is a safer and better community. And what is better than to ensure than an individual who may be a perpetrator of a crime is ensured that they will be held to the highest standard, and allowing the Crown to have the opportunity to appeal, if there is a mistake in law.

It does not deny if it goes to the Court of Appeal that particular defendant will still have an opportunity for representation and then they will still have a further opportunity for appeal. The safeguards are there, Madam Deputy Speaker.

But right now we have a situation where it is leaning towards the defendant, and we are saying let's level the playing field. And we are not being novel in this case, Madam Deputy Speaker. We are behind the eight ball in this area. Other jurisdictions have already done this, and so it is time for us to catch up and get it right, Madam Deputy Speaker.

You know, surely we want to ensure as we go forward, Madam Deputy Speaker, that we have done everything that we can. Surely we want to leave no stone unturned. And I would invite and encourage all Members in this House who share my concern, who share the concerns of others on this side of the House with the state that this country is in right now with the rising crime, with the state this country is in right now with the terror that is going on in our streets, that we would all stand up and participate and look at the merits of this Bill and do what is right for the people of Bermuda.

Thank you, Madam Deputy Speaker.

[Desk thumping]

The Deputy Speaker: Thank you, Mr. Crockwell.

Does any other Honourable Member wish to speak to the motion that The Court of Appeals Amendment Act 2009 be now committed?

The Chair recognises Mrs. P. J. Gordon-Pamplin, the Representative for Paget West, constituency 23.

Mrs. Gordon-Pamplin, you have the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, this is a proposed Bill that is as serious as any legislation that we have passed through this Honourable House.

One of the things that we have to recognise, Madam Deputy Speaker, is that in the 30s, 40s, 50s, and 60s, and perhaps even up to the 70s, and maybe even into the early 80s, we did not have the benefit of the technology that we have today. Things such as DNA evidence was yet to come up on the horizon for consideration, never mind for application. But now we have the benefit of such interesting and beneficial technology.

Madam Deputy Speaker, I can tell you without fear of contradiction that not one person on this side of the House would tell you that they would want to see an innocent person go to jail. Not one innocent person ought to go to jail, or be punished in any way by the heavy hand of the law. The corollary of that, Madam Deputy Speaker, is that not one person who is guilty should be set free and not permitted to face the penalties that they have chosen to have placed against them by virtue of committing an act that is against the laws of this land.

But who are we concerned about in this instance? Is it that we want to ensure that those people who would appear in front of a magistrate, in front of a jury, will say to you *I know my rights* and take the opportunity to figure out how to squirm and wiggle and manoeuvre and manipulate the system in order to get off only to come and point their fingers in your faces and say, *Your system didn't work for me. Yes, I was guilty, but I'm free, I got off.*

Is that right?

I do not believe it is, Madam Deputy Speaker.

Madam Deputy Speaker, the victims of crime want to ensure that they have a just result. And, you know, we talk about closure. And we talk about we have a trial and at the end of it there is a conviction and in your heart of hearts you know that the perpetrator who has been brought to trial is in fact the one who unequivocally and indisputably committed the act. And you get a conviction. And then there is a sentence. The family of that victim, or the victim themselves, can have the feeling of saying, *At least, notwithstanding that I suffered an injustice in terms of the perpetrator's committal of the act, at least justice has now been served.* And there is closure.

But what happens when the person, almost from an outsider's perspective, indisputably is the perpetrator of a crime (from an outsider's perspective now), and they go into a courtroom and the evidence is there. We are all potential jurors, so we look at information that comes before us and the interpretation of the law by a judge and we look and we say, *That judge said a, b, c. The facts, as I see them, do not support what the judge told me it ought to be, so, therefore, I am obliged, based on the direction of the judge, to acquit.* And you get an acquittal.

And then you get somebody, having been acquitted, tomorrow they go take a gun and shoot the same guy in the same case—and I will not speak to any detail of that—but then you get a juror who says, *I think I got it wrong, I think I got it wrong.*

Well, sometimes when you have that reflection it is a little too late. And it is okay to say that it happens. But it does not happen if the system is correct.

If we now look at the fact that there is compelling new evidence . . . nobody is recommending or suggesting a witch hunt. But if there is compelling new evidence that one who has been acquitted ought truly to have been convicted and the . . . if it were the other way around, the defendant has the opportunity to go to the court and to say, *I've been wronged, I want an appeal. I have the right of appeal.* But historically the Crown has not had that benefit and that advantage, Mr. Acting Speaker. (Thank you, as I recognise you now taking the Chair).

But what we want to do is to ensure that at the end of the day we get the right result. The right result. Not one that was based on perhaps a judge's erroneous direction, not one that was based on perhaps a juror's misunderstanding of that direction, and not one that is based on anything that is subjective, but the result that is based on compelling evidence that would come to the contrary of a decision that may already have been made.

And if the right inures to a defendant to have the ability to appeal, why would it not if the defendant says the result was not the right result and, therefore, I am appealing. Why would that same benefit not inure to the Crown? There is, as the Honourable and Learned Member, Mr. Crockwell, just indicated, always the right of appeal to the Court of Appeals. There is always the right of appeal of the decisions handed down by the Court of Appeals; there is always a further appeal that one could make to Privy Council.

And we have seen that process in effect. We see it mostly with commercial type crimes, but we have seen it in criminal activity as we have had the examples of it in the past, Mr. Acting Speaker. Why would we not want to enshrine something that says we have got to get it right?

If we have sloppy police work, and a victim gets brought into court and somebody has kind of just plain dropped the ball . . . I would never advocate to go on a witch hunt for an individual. But what I would say without fear of contradiction is that any family member who has had to suffer a loss where they know that the result is the wrong one, who will never have closure . . . I think as we speak of Beth, the

mother of Natalie Halloway. I think of the pain that that family must experience because they do not have a body. And on that body they may have had the ability to have some new evidence that was compelling and very real in which they would be able to get closure to the challenges of the loss of their child.

I think of the family of Rebecca Middleton, who on our very shores suffered a similar fate. And clearly, as evidence and history have shown the result, the investigation was botched. The trial gave the result based on the information that was presented, but it was premature. It was premature, because sometimes our rush to judgment was standing of the way of that which is right.

And at the end of it . . . and we are not suggesting that this becomes retroactive. So we are not trying to say let's go on a witch hunt for somebody we let off before. But let us put people on notice to know that you cannot use your influence or use the system to a mean advantage when you have done something wrong.

When somebody finds themselves in that situation, then why would they not want to understand that in a civilized society that it is incumbent upon the legal framework to ensure that the innocent are set free and that the guilty pay the price?

And, if during the course of any given trial the result comes out and then you look at it and say this is evidence, without contradiction, that this person is the perpetrator—the DNA shows it. You know, when I say we did not have the benefit of that before, we did not. And I can understand the reluctance, certainly of a defence attorney, to say, *You tried my client, he was let off and I'm sorry I am not going to permit that client to be witch hunted.*

But with compelling new scientific evidence that can be employed in order to ensure things, like DNA, are accurately assessed and a person who otherwise may have been let off from a decision is now determined that you are the one, you pulled the trigger, the gun residue shows it, the semen samples show it . . . you know, with all the compelling DNA evidence and because on any given day some judge may have erred, some jury may have misheard, and therefore you get an innocent man walking the street.

Now, I know that there used to be an adage that said it's better for ten guilty men to go free rather than one innocent man lose his liberty. And I think that with the limitations of scope under which we previously operated, clearly, that would have been the right approach to take.

But now we are sophisticated. We are not living in the 18th or 19th century; we are living in the 21st century where we do have the benefit of study and we do have the benefit of scientific determination, and we do have the benefit of people who specialise in areas of being able to determine even the most minute.

I know some of us may look at programmes like CSI and the like, and we think that within an hour of a show you find a crime, an investigation, a perpetrator, a trial and a result. We all see that. But in reality does that happen? No, it does not.

When we have to go through the painstaking efforts of ensuring that once the crime is committed that we do the investigations, that we find the perpetrator, that we bring the correct information to the courts, and that perpetrator is then brought to trial and then determined that they are not guilty, when in fact they are—we have got to have a procedure to put it right. And if we on this honourable Hill are not prepared to put matters right, then I question the purpose of our being on this Hillside.

Let us, as conscience-possessing individuals do what is right by supporting this legislation.

Now, I do know that the Honourable Education Minister indicated that there is a Government Bill that is on the Order Paper for discussion at some future point in time. But the limitations and the terms of reference of that Bill do not mirror the terms of reference of this.

What is wrong with us taking little steps and using the collective talent and intellect of every Member of this House to bring to bear legislation that sits on our books in perpetuity until it is changed, the ability to ensure that under every criminal circumstance with compelling scientific evidence that we end up getting the right result? What is wrong with that?

If Members of Government feel that this is not something that they can support, I am pained. I am absolutely pained. Because I would not want to look in the faces of any victim's family and say we had the opportunity to do right by you, to do right by the situation, because a perpetrator may have been let off and now we have found that there is compelling scientific evidence that we can bring that person back to account for actions that they clearly have done and yet we will have failed to do so.

How could we look into the eyes of our children and say to them, *As long as we can figure out a way to get away, get out of doing something that we know we did, but there is a way to wiggle out of it . . .* What example is that setting for our children? Other than to set them up to say, *I'm going to not take responsibility for anything that I have done because maybe mama will come and make it right for me, or maybe daddy will come and make it right for me, or maybe even a judge will come and direct a jury and the jury will look at me and be ever so sympathetic and they will make it right for me.*

But at what point in time does that young person learn the lesson that you have to make it right for yourself? You have to ensure that any action that you perpetrate is the right one so that you do not get yourself caught.

I will finish as I started, Madam Deputy Speaker. I do not want to see one person who is innocent sitting incarcerated. But, neither do I want to see one person who is guilty walking the streets among us

in order to be able to reoffend and recommit because they were able to find some way to shake the system.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mrs. Gordon-Pamplin.

Does any other Honourable Member wish to speak to the motion that The Court of Appeals Amendment Act 2009 be now committed?

The Chair recognises the Honourable D. N. I. Butterfield, the Minister for Culture and Social Rehabilitation, the Representative for Pembroke West Central, constituency 18.

Minister Butterfield, you have the floor.

Hon. D. Neletha I. Butterfield: Thank you, Madam Deputy Speaker.

I have sat here and listened, and listened well. I have also heard the comments of what we should do and get up and say. But sometimes, Madam Deputy Speaker, I wonder . . . and my colleagues might feel the same way, if, when we come to this House, we get a little mischievous.

In looking at the Order Paper I see that the Government has on the Order Paper #12 for discussion—only we would know that here. But the public needs to know today that this Government has tabled something that we will debate next week, and we look forward to a full debate—

The Deputy Speaker: I am sorry, I have to correct you there, Minister. Because of this being taken up, and the Member has indicated that he intends to amend the title when we go into Committee, right now he has just tabled 2009, and yours is tabled 2010.

Hon. D. Neletha I. Butterfield: Yes.

The Deputy Speaker: But once we go through the process yours, by [Standing Order] 49, should you try to take it up, will be withdrawn. Otherwise it will just stay on the paper and fall off.

Hon. D. Neletha I. Butterfield: Yes, thank you, Madam Deputy Speaker.

The Deputy Speaker: But it does not stop you from re-tabling it in the future.

Hon. D. Neletha I. Butterfield: No. But we can tell you this evening, that we will not be supporting the Bill, thank you.

The Deputy Speaker: Thank you Minister.

The Chair recognises Mr. H. K. E. Swan, the Opposition Party Leader, the Representative from St. George's West, constituency 2.

Mr. Swan.

Hon. Hubert (Kim) E. Swan: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, I am very pleased that my colleague, the Honourable Member, Mr. Barritt, felt it necessary as he has in the past and as our party has in the past, stood for this particular amendment that he has brought—this Court of Appeals Amendment Act that he has brought forward today.

I am most obliged to the Honourable and Learned Members. Indeed, Mr. Barritt, the Honourable and Learned Member (his is 2009), and also the Honourable and Learned Members, Mr. Pettingill and Mr. Crockwell, who both spoke, and the Honourable Member, Mrs. Gordon-Pamplin, and the Honourable and Learned Member, Mr. Moniz all spoke very well and with a great deal of emotion and passion and understanding to the importance of this particular Amendment Act and its significance to the wider Bermuda community and the need to be included on our books.

Madam Deputy Speaker, it is important that we recognise the climate in which this amendment is brought forward here today. We would hope that the Government would, certainly, in its wisdom, take the opportunity to weigh in on this debate and even give cause to pause and see the significance of supporting this particular amendment here today.

Madam Deputy Speaker, families in the Bermuda communities are faced with some of the most challenging times that they have ever had to contemplate. Indeed, Madam Deputy Speaker, as was the case some 12 years ago when one of our visitors came to our shores and experienced a traumatic situation where justice was not carried out to the certain satisfaction, indeed, that needed to be done . . . many around the world, as they watched, felt it necessary for such an amendment to have been dealt with long before now, Madam Deputy Speaker.

Since that particular time we have seen déjà vu where that type of situation has fallen in the laps and affected families of our own on our shores. Both situations were most tragic, both situations impacted many families in a profound way.

You know, we do not talk enough when we talk about law. And I am just a layman in this regard. There are many Honourable and Learned Members who spoke on this matter who could speak from a working standpoint of view. But, Madam Deputy Speaker, I know a lot of the families and can feel the pain that they feel. And that pain does not go away. That pain was not comforted at all when amendments such as these were brought to this House in the past and treated in a somewhat similar way to how it has been treated today.

I am very appreciative to our colleagues in Opposition—the Bermuda Democratic Alliance Members—who joined in with us. It seemed somewhat like a *Kumbaya*-type of moment in that regard. But it is not the first time we have been on the same page on issues. And that is important, Madam Deputy Speaker,

because as Honourable Members who spoke to this emphasised, sometimes you have got to just do the right thing. And that is what this amendment is all about.

We could see if doing the right thing had been done in 1997, or 1998, or 1999, or 2003, or 2004, or 2005, or 2009, but, Madam Deputy Speaker, it was not carried out. As a consequence, we have had another family and thousands of people impacted by the failure to do the right thing. And that is tragic, and it is wrong. It is wrong of us, particularly in the climate in which we live today. It should be an easy thing for Members to stand up here and support this motion, this day, this time, this season in this country. It should be easy to do the right thing. But, for whatever reason, it cannot happen. It is not happening. It is not happening today, and it is tragic and it is most unfortunate.

You know, the Honourable Member, Mr. Pettingill, who spoke on this matter, would know far better than me—and certainly the other Honourable and Learned Members like himself would know—that, certainly, the persons who come for representation in the courts, who find themselves needing defence against things that have been brought up against them for wrongdoing, whether or not they did it, they certainly have the resources to call upon the best defence attorneys that money can buy. And I am sure that that Honourable Member, if he had a little bit more time, and I could have slipped him a note, could have certainly spelled out how persons can certainly defend issues.

Let us not take for granted the fact that as people are held in custody, or as people are navigating how they are going to mount a defence, there are many people today in our community who are criminals who can certainly have a good understanding of the workability of any law that impacts on their lives.

What we are saying right now, Madam Deputy Speaker, is that it is necessary for this country to have the opportunity that this particular Court of Appeals Amendment Act provides. And I am disappointed; but I am hopeful that between now and the close of this debate on this important matter that the Government would find the wherewithal to be able to stand and support this measure, Madam Deputy Speaker. As Members go out in this community and as they come up, as we all do, to family members and people in the community who know that this particular amendment needs to be put on our law books . . . explain to them the politics that prevented you from doing the right thing.

The Honourable and Learned Member, Mr. Pettingill, not too long ago, when a measure was brought here, argued (along with other Honourable and Learned Members, Mr. Barritt and Mr. Moniz) to have these matters amended—and was able to do so—that it certainly made good legal sense and did not violate the spirit of law. And I am sure the Honourable Member, who is a very learned—he sat as a Magistrate, he sat as a defence attorney on many occasions—would have done the same if he or other Learned Members thought that this particular amendment would not do the right thing for this country.

But today, Madam Deputy Speaker . . . and it is not like this amendment has not been around since November of last year. It is not like the Honourable and Learned Member, Mr. Barritt, has not seen the need for good governance issues as you, Madam Deputy Speaker, have brought forward good governance issues for the betterment of this country and this House and brought this House closer to the 21st century than it has ever been in its history in recent years. And we are grateful for that. So we have got to step away from the politics that are preventing us from doing the right thing today, Madam Deputy Speaker.

As I said (as I wrap, Madam Deputy Speaker), at some point in time someone has got to be an advocate for the victims. Not just someone coming up and saying, *Well, maybe you need to go and get criminal compensation*. There is no amount of compensation that can heal the wounds of family members like those in the Rebecca Middleton case and those in the Khalon Heel [PHONETIC] case to bring back those particular . . . the wounds that have hurt those families and those close to those victims. You cannot.

But we can make a giant step by putting in place an amendment that can bring about greater parity in our law. That is all we need to do today. That is what is before us today, Madam Deputy Speaker—the opportunity for the Government, for both Oppositions, to collectively do the right thing. That is what is before us today. No politics.

No politics—doing the right thing.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Swan.

Does any other Honourable Member wish to speak to the motion that the Court of Appeals Amendment Act, 2009, be now committed?

The Chair recognises Mr. D. Hunt, the Representative for St. George's South, constituency 4.

Mr. Hunt, you have the floor.

Mr. Donte O. Hunt: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, I am not a lawyer. I do not pretend to know these types of things in detail, like those Honourable Members in this House do. But one thing I do see as we have conducted this debate is what I would term . . . and many in the community, if not in this House alone, see politics as usual. And it is to my dismay, Madam Deputy Speaker.

I sit here looking at a Bill and from my perspective it seems very sound to me. But that is my perspective. And I have every right to speak on it. So does every Member in this House.

It is a very important Bill, and Honourable Members have talked about it and how important it is especially in the context that we find ourselves in with rampant violence, rampant criminal activity, and so on and so forth. I would have expected, Madam Deputy Speaker, that Members on the other side—Members of Government—would have taken to their feet and said something from their perspective, whether they agree or disagree.

I hear a colleague of mine, an Honourable Member, saying that they did. And, in fact, I do stand corrected. They did stand up and say something. There was the Honourable Member, Mrs. Butterfield, who stood up and said, "We disagree." And I believe she took her seat. I do not believe that that makes much for any debate. In fact, silence would have been the same thing. Saying you disagree, and having no meat and potatoes behind that, is no difference.

So, again I say, Madam Deputy Speaker, politics as usual.

And here is what happens. Here is what I can only conclude. Is it because an Opposition Member took the time to draft a Bill, bring it to the House and present it? Is it because it is an Opposition Member that there is silence on the other side? Is it because we are playing this tit-for-tat, this, almost like a soccer match, sport-like mentality that if it is not from our side, guess what, we are not going to support it? We are not going to speak on it. In fact, we are just going to say we disagree. Is it that?

And if it is that, guess what, the public has it right—we are up here playing politics as usual. Playing . . . we are playing politics as usual.

[Inaudible interjections]

Mr. Donte O. Hunt: Madam Deputy Speaker, you know what? I came on as a politician. And I said to myself I would never want to be branded as a politician that depicts what I have just said—a politician that plays this game.

And I stand up to say that I will not be that. I will not be that, and I will call out Government for their silence and their lack of what I would call backbone to stand up and speak to this particular Bill.

[Inaudible interjections and general uproar]

Mr. Donte O. Hunt: Madam Deputy Speaker, I will allow the interpolation to go on because I think I have value to this debate. So, I will pause.

Madam Deputy Speaker, as I see it right now the major difference between this particular Bill, which I find is sound and correct—but that is my perspective and I am standing up articulating that now . . . the major difference between this particular Bill and the Bill that is coming up is the fact that . . . is based on the types of offences that fall under the Bill.

The Honourable Member, Mr. Barritt, has brought a Bill which says that all offences are included under the Bill. For instance, if somebody is found innocent and there are facts that come to light after the fact, then they can be considered. An appeal can be made by the Crown. The . . . the . . . forgive me for lack of better term, the offence can be then tried again.

The Bill that is being brought by the Government is limited to just murder. So what is excluded are offences committed by paedophiles, such offences like paedophilia, rape. And I can go on. I think you understand what I am saying.

And may I add, Madam Deputy Speaker, that we are not just talking about facts and a little bit of information that may almost conclude that someone is found guilty. This is compelling facts, compelling information. I find Government's disagreement, or the lack of support of this particular Bill, atrocious. How can they—Government—not look at all offences the same and conclude that we are only going to allow offences of murder to be retried, based on compelling information?

I call on Government to speak to this fact. Stand up, do not just say you disagree or you do not approve, but speak to the Bill. Do not play politics as usual.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Hunt.

Does any other Honourable Member wish to speak to the motion that The Court of Appeals Amendment Act, 2009, be now committed?

If not, the Member in charge, the Honourable and Learned Member, Mr. John Barritt, Representative for constituency 12, may reply.

Mr. John Barritt: Thank you, Madam Deputy Speaker.

I want to say that I am grateful for the support—and I must say, in some cases, genuine too—and for the passionate zeal with which Members spoke in support of this particular amendment and the need for it as well.

I think we all understand the circumstances prevailing in this community that warrant, certainly, an examination and a rethink of the law, which is one of the reasons this amendment came about.

I want to say, Madam Deputy Speaker, one Government Member spoke from the Front Bench, the Honourable Neletha Butterfield. And I am grateful that she did at least say something when she said that they were not going to support this Bill, because that is important for me—for us, for the public—to know the position of the Government with respect to a particular Bill.

I want to say that I respect her opinion and her right to have an opinion when she said that she

thought that this was mischievous—I think was the word she used.

And I want to say this, Madam Deputy Speaker, the particular Bill that I am bringing here today was first introduced in November of 2009. The Government Bill came last week—last week—the 25th of June!

What I want to say, Madam Deputy Speaker, in response to that, so the public will know that what I have done is calculated . . . I do not like to think of it as mischievous. I will tell you why it is calculated, because I know—party politics aside, we are all members of this community—that people are torn on this issue. There is an honestly held division of opinion on how far we should go in an incursion on double jeopardy, on allowing there to be the potential for retrials where people have been acquitted. We have had these debates in the House of Assembly before—debates which I have initiated through motions and previous bills. So we know that, we know that there is a division.

When I say calculated . . . I had put my Bill on the Order Paper back in November because it is a position that this party has (well known), and because I wanted to see what it might evoke—not provoke, *evoke*—from the Government because I honestly understood that there was a reconsideration going on, a rethinking going on in light of the circumstance. And I do not think I am telling any tales when I say that, Madam Deputy Speaker. I think that is a fact of life.

Now, what I wanted to say was (and this has been mentioned already), I am well aware that there is another Bill on the Order Paper—which was brought forward by the Government last week—to have an incursion, much more limited than the one here before us today, with respect to a right of appeal by the prosecution in cases where there has been an acquittal or there has been a ruling that there is no case to answer. But it is not retroactive. In fact, it explicitly says otherwise. And it limits itself to offences of murder and attempted murder, I believe, and it is a very limiting thing.

What I wanted to do today by bringing forward this Bill is to start the debate—not just for Members in the House, but for the general public as well—on this issue of how far we should go or should not go. Because, if we just do the Government Bill we will be limited to that narrow, or narrower, incursion. And I wanted to have today's debate to see where Government Members stood on this issue both in principle . . . because, at the end of the day, Madam Deputy Speaker, forgive me, but it is a bit like being pregnant. Either you are or you are not. And if you are in favour of a principle, then you are in favour of it. You do not start limiting—except for good cause or good reason . . . and I want to hear that, I want to have that debate.

And so what I do not want to have happen here today is not only this Bill but the Government Bill fall victim to party politics or politics and parliamentary procedure. Because, Madam Deputy Speaker, you indicated a little earlier on—I think when the Honourable Member, Ms. Butterfield, was speaking briefly—you pointed out, *Well there is a rule* (and I think it is important that the public hear this) *a Standing Order*—I beg your pardon. I should know better than most!

The Deputy Speaker: Yes, you should.

[Laughter]

Mr. John Barritt: There is a Standing Order that says that where a Bill has been negated (that is, has been voted down), another Bill containing substantially the same provisions may not be allowed to go ahead in the same session.

And what that means is that the Speaker may well find himself with no other option but to say, when the Government rises to bring forward its Bill, *I am sorry. Last week, or two weeks ago, you defeated the Opposition Bill. It was roughly the same or dealing with the same issues as yours, so you cannot proceed. You will have to come back, if you are minded to do this, in November.*

I do not want that to happen.

The Deputy Speaker: Well, the Standing Order has already been made, Mr. Barritt, by yourself!

Mr. John Barritt: Yes, it has. That is right.

Well, it is one that was there before, Madam Deputy Speaker.

The Deputy Speaker: Yes, and it is still there.

Mr. John Barritt: I do not think I can take complete—

The Deputy Speaker: And it is still there.

Mr. John Barritt: It is still there, absolutely.

So, here is what I am going to do in the spirit of rising above party politics, in the spirit of not getting trapped by parliamentary procedures. I am going to move now that we rise and report progress and ask for leave to sit again.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you Mr. Barritt.

Members, the motion is that we rise and report progress and ask for leave to sit again. Does anyone wish to speak to that motion?

Then I shall put the question.

All in favour of that motion that we rise and report progress signify by saying Aye. Those against, say Nay.

AYES.

The Deputy Speaker: The Ayes have it. We will rise and report progress with leave to sit again.

[Motion to rise and report progress passed]

The Deputy Speaker: The next item on the Order Paper. . . I do not know what is the next item, Madam Clerk.

Order number 15—

Mr. John Barritt: There is another in my name, Madam Deputy Speaker—carried over.

The Deputy Speaker: —is carried over.

Hon. D. Neletha Butterfield: All Government business from here on, carried over.

The Deputy Speaker: Number 16 in the name of Mr. Simons?

Mr. Nelson H. Cole Simons: Carried over.

The Deputy Speaker: Thank you.

There being no other Orders of the Day, the Chair recognises the Honourable D. Neletha Butterfield . . . or, sorry . . . whom am I recognising?

I am recognising the Honourable Zane De Silva, the Minister without Portfolio, the Representative for constituency 30.

Mr. De Silva, you have the floor.

SUSPENSION OF STANDING ORDER 14

Hon. Zane J. S. De Silva: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, I move that Standing Order 14 be suspended to enable me to present the following Bill: The Traffic Offences Procedure Amendment Act, 2010.

THIRD READING

TRAFFIC OFFENCES PROCEDURE ACT 1974, SPECIFIED PENALTIES AMENDMENT NOTICE 2010

The Deputy Speaker: The Minister has moved that the Traffic Offences Procedure Act 1974, Specified Penalties Amendment Notice 2010, be now read a third time.

Is there any objection to that motion?

All in favour of that motion signify by saying Aye. Those against, say Nay.

AYES.

The Deputy Speaker: The Ayes have it.

[Motion carried: The Traffic Offences Procedure Amendment Act 1974, Specified Penalties Amendment Notice, 2010read a third time and passed.]

The Deputy Speaker: The Chair recognises Mr. De Silva. You have another matter?

SUSPENSION OF STANDING ORDER 21

Hon. Zane J. S. De Silva: Yes I do, Madam Deputy Speaker.

I just want to clarify if it is 14 or 21 . . . but I would like to move that Standing Order 21 be suspended to enable me to move that the Bill entitled the Credit Unions Act, 2010, be now read for the third time by its title only.

THIRD READING

THE CREDIT UNIONS ACT 2010

The Deputy Speaker: It has been moved that The Credit Unions Act, 2010, be now read a third time.

Is there any objection to that motion? No?

All in favour of that motion signify by saying Aye. Those against, say Nay.

AYES.

The Deputy Speaker: The Ayes have it.

The Bill has been now read a third time and been agreed

[Motion carried: The Credit Unions Act 2010, read a third time and passed.]

The Deputy Speaker: The Chair recognises the Honourable Walter Roban, the Minister of Health and the Representative for Pembroke East, constituency 15.

Mr. Roban, you have the floor.

SUSPENSION OF STANDING ORDER 21

Hon. Walter H. Roban: Thank you, Madam Deputy Speaker.

I move that Standing Order 21 be suspended to enable me to move that the Bill entitled Bermuda Immigration and Protection Amendment (No. 3) Act, 2010, be now read a third time by its title only.

THIRD READING

BERMUDA IMMIGRATION AND PROTECTION AMENDMENT (NO. 3) ACT 2010

The Deputy Speaker: Thank you.

It has been moved that the Bermuda Immigration and Protection Amendment (No. 3) Act, 2010, be now read a third time.

Is there any objection to that motion?

Those in favour of that motion signify by saying Aye. Those against, say Nay.

AYES.

The Deputy Speaker: The Ayes have it.

A Member was getting my attention and I was distracted.

[Motion carried: The Bermuda Immigration and Protection Amendment (No. 3) Act, 2010, read a third time and passed.]

[Inaudible interjection]

The Deputy Speaker: Well as long as the circle does not have their back to the Acting Speaker, it is okay.

There being no further matters, the Chair now recognises the Honourable Neletha Butterfield, the Minister of Culture and Social Rehabilitation and the Representative for constituency 18.

Minister Butterfield, you have the floor.

ADJOURNMENT

Hon. D. Neletha Butterfield: Thank you, Madam Deputy Speaker.

I move that the House do now adjourn to Friday July 9th.

The Deputy Speaker: You do not have to say "the Friday" because it is the next meeting day, so just that the House do now adjourn. Thank you.

The Minister has moved that the House do now adjourn. Does any Honourable Member wish to speak to that motion?

The Chair recognises Mr. E. T. (Bob) Richards, the Shadow Minister of Finance and the Representative for Devonshire East, constituency 11.

Mr. Richards, you have the floor.

RESPONSE TO MINISTERIAL STATEMENT BY PREMIER ON PROCEEDINGS OF PUBLIC ACCOUNTS COMMITTEE

GLOBALHUE CONTRACT

Mr. Everard T. (Bob) Richards: Thank you, Madam Deputy Speaker.

I arise this afternoon to respond to a Ministerial Statement given by the Premier this morning on the proceedings of the Public Accounts Committee yesterday. Unfortunately, the Premier is not here. But I have to say that I cannot allow this opportunity to pass without setting the record straight.

It is very unfortunate that, particularly, the Premier of our country can take what was a very positive event yesterday, in having the first public Public Accounts Committee session, and use the privilege of a Ministerial Statement to say what he said. And I would like to set the record straight.

In that meeting yesterday it was an issue of the Government not having any kind of tender process for the renewal of the GlobalHue Contract. They just rolled it over. No one else had a chance to bid on that contract.

The point that I, as Chairman, was making was that at the time this rollover took place (at the beginning of 2009) it happened when the world was in the depth of the worst recession since the Great Depression of 1930, which meant that advertising agencies all over the world, and, particularly, the ones that I described—the advertising agencies on Madison Avenue (and you use that phrase to describe *all* advertising agencies)—were desperate for business. Because advertising business, Madam Deputy Speaker, dried up during that recession.

The point that I was making was that instead of the Department of Tourism taking that opportunity to avail themselves of bids and tender offers from a variety of people on Madison Avenue (what I call the brains of Madison Avenue), instead of them taking the opportunity to see what was out there, they could have availed themselves of a tremendous amount of talent for a discounted price.

I was casting no aspersions on the mental capabilities of the people in GlobalHue. The point that I was making was that we missed an opportunity to get a discount for Bermuda, and we missed an opportunity to cast a wide net and still get a discount for Bermuda.

[Inaudible interjection]

Mr. Everard T. (Bob) Richards: Now, how do I know? I know because they were the only school in town—there was no choice. Nobody made a choice.

If the Honourable Member wants to say something, he can say something after me. But let me say this, the officials in the Department of Tourism told us that no one else was considered.

POINT OF ORDER
[Misleading]

Hon. Zane J. S. De Silva: Point of order, point of order, Madam Deputy Speaker, point of order.

The Deputy Speaker: Point of order has been called.

Mr. De Silva, what is the point of order?

Hon. Zane J. S. De Silva: Point of order is that the Honourable Member is misleading the House, Madam Deputy Speaker.

When he says that we lost out on a discount . . . if you are going to make that public statement you

have to show some proof of that. That is simple and clear. If we missed out on a discount, prove it.

The Deputy Speaker: Yes Minister.

The Member can say that it is his opinion or it is his understanding, but he cannot just make a declarative statement without tabling some proof.

Thank you.

Mr. Everard T. (Bob) Richards: Madam Deputy Speaker, let me say this. You have no idea of what is out there until you look, until you ask.

The Deputy Speaker: We are not talking about that Mr. Richards. We are talking about how you present your notion on the floor of Parliament.

Mr. Everard T. (Bob) Richards: I know what I am talking about, Madam Deputy Speaker. And what I am talking about is—

The Deputy Speaker: And what I am talking about is your manner of presentation.

Mr. Everard T. (Bob) Richards: My manner of presentation. My verbal manner?

The Deputy Speaker: Yes, your verbal manner.

Mr. Everard T. (Bob) Richards: My choice of words?

The Deputy Speaker: Your choice of words, exactly.

Mr. Everard T. (Bob) Richards: Then let me rephrase it.

The Deputy Speaker: That is exactly where I was trying to direct you.

Mr. Everard T. (Bob) Richards: Let me rephrase it, Madam Deputy Speaker.

The Bermuda Government missed the opportunity of even seeing what was out there. And they could have availed themselves of a huge number of choices which, I am sure under the economic circumstances, these people would have been fighting for that business, and, thereby, they could have saved Bermuda some money.

Now, if Members want to quibble with that, that is their privilege. But here is the point: I think that was a valid point. The fact that I said it, and nobody in the Department of Tourism . . . it was like a bolt out of the blue to them. The fact is that we missed an opportunity. We missed an opportunity to get lower prices and we missed an opportunity to canvass the entire market to see what was out there.

We were told that they wanted continuity. Well, why would you want continuity with an industry that is an abject failure? I do not know. But, anyway, that was the deal.

Now, what I am talking about here today, Madam Deputy Speaker, is the fact that that was the point that I was trying to make.

Somehow the Honourable Premier seemed to get this . . . seemed to somehow inject the matter of race into this. And I think that this is really sad and, quite frankly, pathetic. And it is a pathetic effort to distract Bermudians from what was the failure in his department to start to talk about race.

Nobody said anything about the fact that this company was owned by Blacks. The fact is that the Department of Tourism on behalf of the Government of Bermuda did not get any other bids and they did not avail themselves of an opportunity—perhaps an opportunity that will never come back in another 30 years. I do not know. But that is the point.

It has nothing to do with Black-owned businesses. It has nothing to do with race at all. It has got to do with they have a responsibility to get three—*three!*—bids based on financial instructions. They got none, except they just said, you know, roll this thing over.

So, you know, all Government Departments . . . their responsibility is to get the best bang for their buck, that the Bermuda Government gets the best bang for its buck. In this case, we did not. That is the issue here. It has got nothing to do with Black-owned businesses and all this other stuff. This is a complete red herring, and, as I say, a pathetic attempt at distracting people from the essential issue, and the issue of the failure of the Department of Tourism to get the best bang for the dollar for the people of Bermuda.

Thank you.

The Deputy Speaker: Thank you, Mr. Richards.

Does any other Honourable Member wish to speak to the motion that the House do now adjourn?

The Chair recognises Mrs. Patricia Gordon-Pamplin, the Representative for Paget West, constituency 23.

Mrs. Gordon-Pamplin, you have the floor.

VICTOR SCOTT SCHOOL SUMMER PROGRAMME

Mrs. Patricia J. Gordon-Pamplin: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, the topic that was just raised by my honourable colleague brings to mind another issue. And that is that to the extent that we fail to shop around for the best bargain, as it were, fail to recognise that in a situation where supply and demand drive a market, failing to recognise that we could have had savings so that the cost of $14-whatever millions coming out of the consolidated fund, may have been a million or two less.

Why would that be important in the overall scheme of things? Because, Madam Deputy Speaker,

yesterday we were privy to the information, as it was articulated in the press and on the radio, electronic media, concerning the teachers at Victor Scott School. And I heard the Premier this morning, when the Honourable and Learned John Barritt congratulated them for the effort that they had made to try to raise money. And the Premier stomped his feet and said, that's a good citizen. When there is a void, we step in to fill the void.

Now, Madam Deputy Speaker, if we had an extra million dollars out of savings that we did not have to pay out, that is a million dollars more that is in the petty cash tin. If we had the school that we spent an extra $50 million on over and above that which was bid and expected, there is $50 million more in the kitty. If we did any level of austerity measures within Government and saved money, then that money would then be available to pay for programmes that have got to be deemed to be essential.

Madam Deputy Speaker, as we speak I know firsthand that the students at Victor Scott School, if no other school . . . and I am not suggesting that we ought to negate the experiences of any other school, but, certainly, the experiences from the teachers, the experiences from the student body of Victor Scott, in particular, over the course of the past few months, certainly since November when there were shootings that were going on around the very ears of these young people within their direct community, and that had direct impact on the students themselves. From a shooting up at 42nd Street to one on the perimeter of the school field, to another two steps up on Frizzell's Hill area that borders the school field, to another on the school field itself on Good Friday, to the murder of a husband of one of the teachers of these young children, in addition, two of the murders were parents of students who went to that school.

Now, there is a group (you will be aware, Madam Deputy Speaker) called Rise Above Bermuda. And the young men who initiated that group, the brothers Caines, as well as Dr. Lou Matthews and perhaps one or two others, made the determination that there has got to be something that we as members of the public can do in order to try to enhance the experience of those young people and to help, if we will, to de-traumatise the impact of those experiences.

Rise Above asked that the members of that group do something that was tangible. And we broke into different segments. And I will be proud to say that I joined the segment in which we made a determination that on the first Friday of every month we would go into that school and have the opportunity to listen to those young people and see how they feel and how they fared and to just let them know that as community members, not directly related to them by blood necessarily, not directly related to them by virtue of being their teachers necessarily, but by virtue of being concerned individuals from the community . . . at no time did I even push the fact that I was a politician, because that was not the issue.

The issue is [that] I am a parent. And as a parent of a child I know that I would not want for any of my children to suffer the trauma that these young people have suffered.

But with all of that being put together, Madam Deputy Speaker, it is not surprising at all that by the end of the school year there are going to be some underachievers. These children have been traumatised. Adults, when they go through traumatic experiences, very often react much differently. Children, as they say, are resilient. And we certainly try to build a positive environment and a community spirit with these young people by doing things with them, listening to them, [hearing] their ideas, writing poetry, and just having a time in which these young people would not have to focus on the trauma that they had been subjected to.

At the end of the school year, would it not make sense that some of our young people are going to be left behind? Their experiences will have precluded, in some instances, some of our young people from focusing and from achieving the results that the teachers have striven so hard to ensure that they achieved.

And such was the concern of those teachers, that they were not prepared to let slip a summer programme that they deemed to be absolutely critical and essential for the development of these young people. They were prepared as individuals because of the love and care and concern. And very often, let me say as an aside: many people have said that our teachers in the school system many of them ought not to be there, many of them are there for the money. I do not find that among the teachers who exist at Victor Scott School.

I am not suggesting, because I am not intimately knowledgeable about teachers in other jurisdictions . . . but the criticisms are there. And I recognise that there could possibly be issues.

But these teachers, as caring and loving as they were—as they are—towards their students were not going to permit a programme to be unfunded and to go begging because it would have meant that for the duration of the summer those students who could have been brought along to reach that level of educational acceptance for the next stage would have had the opportunity over the summer to be able to have that exposure. So, the teachers then decided they were going to go out and raise the money to save the programme.

Now, Madam Deputy Speaker, I have to tell you that I cannot imagine anything more upsetting, notwithstanding the response of the community. And I am quite prepared to sponsor any child under the circumstance. It is not a problem. I have financial commitments, but it is one that I am prepared to sacrifice to make one more time.

But should that have been necessary? Should we be in a situation where we have wasted so much money along the way that the Minister of Education was required on budget eve to slash $6 million from his budget?

Those savings had to be found somewhere. And one of the casualties seems to be that we are prepared to leave our young people behind, because of the Minister's requirement to interject some savings in his department.

Now is that the right thing? Do you want to think that your teachers are going, cap in hand, grovelling to raise a few bits of silver in order to be able to ensure that our students get the best shot?

Madam Deputy Speaker, if there was any programme in this House that we had the ability to look at austerity measures and to cut out, it certainly, to my mind, would not have been one that would have impacted upon the young people of this community in their educational—

Hon. Elvin G. James: Point of order, Madam Deputy Speaker.

POINT OF ORDER
[Misleading]

The Deputy Speaker: Point of order.

The Chair recognises the Honourable E. G. James, the Minister of Education.

What is your point?

Hon. Elvin G. James: The House is being misinformed here. I wish the Honourable Member would get her facts straight before she comes here making assumptions. I plan to clear it up after, but please get your facts straight.

The Deputy Speaker: Sorry. First of all, that is not a specific point of order. You did not direct it to me.

Hon. Elvin G. James: Okay.

The Deputy Speaker: Do not speak to the Member.

Hon. Elvin G. James: First of all, the Department of Education did not scrap any summer school.

The Deputy Speaker: Thank you, that is specific.

Would you not allude that they scrapped the summer school, Mrs. Gordon-Pamplin?

Mrs. Patricia J. Gordon-Pamplin: I accept the Minister's explanation.

The Deputy Speaker: Thank you.

Mrs. Patricia J. Gordon-Pamplin: I will say, Madam Deputy Speaker, that the fact that the teachers were out there collecting money . . . I, in fact, got an email from a member of the community who said that she felt it unfortunate that money was needed and it was not being provided, that the teachers were required to go out and get the money, and that she, as a single parent, was prepared to start the ball rolling.

This particular private citizen sent an email to the Headmistress of Victor Scott School and asked for the bank account information. That information was then disseminated to that particular individual's office contact, and then through those office contacts it has actually taken root and gotten into almost every person's email who would be on somebody else's contact list. And I applaud the teachers for that.

But I have to say—whether the Government cut the programme [or not]—the fact is that the teachers have found themselves in a position of having to provide a service for young people for which there is no money. And, given that fact, I would certainly hope that within the Government's coffers—whether it comes from the Honourable Member, Neletha Butterfield's area, whether it comes from the Honourable Member, Derrick Burgess', area, whether it comes from the Education Ministry—somewhere we need to be able to find the money to make sure that our young people—

[Inaudible interjections]

Mrs. Patricia J. Gordon-Pamplin: —we need to make sure that our young people are not going to be made to suffer for the want of a few shekels.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mrs. Gordon-Pamplin.

The Chair recognises the Honourable E. G. James, the Minister of Education and the Representative for constituency 27.

Mr. James, you have the floor.

Hon. Elvin G. James: Thank you, Madam Deputy Speaker.

Let me first of all say that within the Ministry of Education our primary concern is to make certain that our children come first and we want to give them every opportunity to succeed.

Let me address what I have just heard from the Honourable Member.

When I look at all the summer school programmes that we had in 2009, I can tell you we had them at preschools. We had one at Prospect Preschool, we had one at Elliot, and one at Northlands. We had one at Dellwood and Sandys, and one at Berkeley. No, we did not have one at Victor Scott.

So, when I hear that we have "scrapped" a summer programme at Victor Scott, you know, I say it is somebody else speaking loud and wrong again. Neither have we received a request for a summer

school programme at Victor Scott this year. However, yesterday we did make some inquiries through the business community, and I am certain that something will be coming forward. But at no time did we scrap a programme.

This year we have run the same programmes again. So, when I hear this type of information and read this type of information, it just amazes me how one can just hear something and, on a whim, get up, speak loud and wrong to every piece of media that jumps in front of them, and they say they are doing good for the children. Not at all! Not at all!

If you had these children's best interests at heart . . . I mean, I have been here. I have not been on vacation. One could have called me to find out what is happening. And I think I am reasonable, I could have sat down and said, *Well, we do not have the funds. But if they want to make a request we can see what we can do to see if we can start something at Victor Scott.*

There was nothing there last year. Okay? There was nothing last year. We had our programmes wherever they were requested, and we did what we could.

So when I hear this type of information . . . this is an individual . . . when I hear this type of individual that just jumps up . . . it makes be believe that people are looking for anything to make a noise about—anything to make a—

Mrs. Patricia J. Gordon-Pamplin: Point of order, Madam Deputy Speaker.

POINT OF ORDER
[Imputing improper motive]

The Deputy Speaker: Excuse me, Minister James. There is a point of order.

The point of order, Mrs. Gordon-Pamplin?

Mrs. Patricia J. Gordon-Pamplin: The Honourable Member is imputing improper motive. There is absolutely no way that I am just jumping up—

The Deputy Speaker: The Minister never referred to you, he said "people." I believe that is what he said.

Some Hon. Members: Oooh [and inaudible interjections].

Mrs. Patricia J. Gordon-Pamplin: Well, I was the one who spoke.

The Deputy Speaker: No, I thought . . . Excuse me, with all due respect, you were speaking about a subject that has been in the public domain—

Mrs. Patricia J. Gordon-Pamplin: Exactly.

The Deputy Speaker: —and I thought the Minister's response was about "people" speaking.

Mrs. Patricia J. Gordon-Pamplin: In general?

The Deputy Speaker: That is what he is saying.

Mrs. Patricia J. Gordon-Pamplin: Then I would like him to be really specific—

The Deputy Speaker: No, the Minister did not say the Honourable Member. I think . . . I am sorry ma'am, but he did not say that. Your point is not taken.

Minister, you may continue.

Hon. Elvin G. James: Thank you, Madam Deputy Speaker.

I find it commendable that there are Members from this House that do go down to Victor Scott on Fridays and give of their time to help the children. And I would encourage that at any of our schools. And it happens at a lot our schools where people go in. They read to them, and so on. And I would encourage other members of the community to do the same thing.

But, I would also say that if you do have something that you feel confused about and you think that should be done, then come and see us. We can work it out with you.

In this case—I will say again—there was no summer school at Victor Scott last year—

[Inaudible interjections and general uproar]

Hon. Elvin G. James: —and, anyway . . . thank you Madam Deputy Speaker.

[Pause]

Mr. John Barritt: Madam Deputy Speaker.

The Deputy Speaker: Thank you, Minister James.

The Chair recognises Mr. John Barritt, the Representative for Devonshire South Central, constituency 12.

Mr. Barritt, you have the floor.

Mr. John Barritt: Thank you, Madam Deputy Speaker.

I am not going to be long. I believe I heard—I was not in the room at the time—but the Minister of Education said they are looking at this particular programme at Victor Scott and there may be something forthcoming?

[Inaudible interjection]

Mr. John Barritt: Oh. Not from Government. Not from Government. I wanted—

[Inaudible interjection]

Hon. Elvin G. James: Yes, what I did say—

The Deputy Speaker: Thank you, the Chair recognises Minister James to clarify.

Hon. Elvin G. James: I am sorry that the Honourable and Learned Member, Mr. Barritt, was not in. What I did say was that this is not a summer school that we scrapped because it did not take place last year. And it is not a summer school that we got a request for funding for. However, as it came to our attention, yes we are looking for answers to see if it can go forward.

The Deputy Speaker: Thank you, Minister.

Mr. Barritt?

Mr. John Barritt: That is the point I wanted to seek confirmation on. I may not have been in the Chamber, but I heard it over the air in the Committee Room outside. And I want to say that I am pleased to hear that.

I am not sure that it benefits us a great deal by continuing to quibble over whether there was a programme there, whether it has been scrapped or not—

[Inaudible interjections]

Mr. John Barritt: No, no, no.

Here's the thing, Madam Deputy Speaker. I think we need to focus . . . the real thing is we need to focus on the children. The Minister himself said that the children come first.

The Minister will confirm this. He will know that I came to him some time ago—not some time ago, a week or so ago. Was it a week or so ago?

And I said to him, "Look, I am concerned at what is taking place down there as I understand it at this time" (that was last week that I said to him)—

[Inaudible interjection]

Mr. John Barritt: Yes, yes, I am going to come to that.

I said, "Look, as I understand there was a programme that they were going to have in place there for the summer." They had identified up to 45 students at Victor Scott who they felt could benefit from something that is called . . . not just summer school, but Behaviour Summer Monitoring. They were going to do more than just babysit children. They have identified children that could benefit from a programme like this at Victor Scott—and I do not think I need to belabour or underline why Victor Scott is so important, given events.

But what had happened was . . . and it concerned me that notices had gone out to parents from the teachers saying that they were going to put this on and then they subsequently . . . and this is as I understood it and this is why I went to the Minister. They subsequently found out that there would be no funding for that. And they had committed, as it were, put the invitation out to parents and teachers—

[Inaudible interjection]

Mr. John Barritt: It is absolutely true, someone is saying.

I do not know, maybe they know as well.

And they did that. But, look, you cannot fault people—those are really good intentions. And, as I understood it at the time, it meant that something that had been in place last year, or the previous years, was being scrapped—

[Inaudible interjection]

Mr. John Barritt: Look, excuse me. I said, *as I understood it at the time*. I wish we would not be so quick to react and to snap and to bite. Let me explain my understanding.

I said, at the time I understood that the situation was that what had been there previously, or what was expected to be there, there was not the funding and it would have to be scrapped and would have to be done away with. And that is when I went to the Minister and expressed concern, that and another aspect of the matter. Of course, you have a right to be concerned. And I did not want to go make it political right away, because I could not understand, it did not sound right to me. It did not add up, it did not sound right.

So, I went to the Minister and he arranged for a meeting where I met with his PS and I expressed the same concern. And he said that there were a number of things going on—changes with respect to summer school programmes—and that it was related to funding. It was related to funding.

And we all know from the budget debate that the Ministry of Education—of all the Ministries—has to find . . . is it five or six million dollars that they have got to trim from their budget in order to meet what they are forecast to get in terms of revenue out of the consolidated fund. And it cannot be easy. And at that time the Shadow on this side asked how are you going to do this? This is going to be dreadful.

And I think what people are saying—and I think the Minister has heard this, based on what he said before. Whatever you do, wherever you cut, let's not do it in something like this that is dreadfully important.

And this morning I stood up on Congratulations and asked for a letter of congratulations to be sent for those teachers who are picking up the ball, who are not simply saying—as a lot of people do in this community—*Well, I have done my best, you know, Government's cut me off and that's it, I will not*

be doing it. They have done more than that. They have put together a programme, they have sent it out. It is going around by emails now to other people. The circle has widened to see whether they can get people to put funds together to make sure that this programme happens. And I glory in their spirit; we need more of that in this community.

But I say to this Government—and I heard some interpolations this morning when I was speaking, "Well, good for them, they ought to do it." I mean, really, if there is one programme, if there is one thing that we should be not cutting, that we should be giving something to—

Hon. Elvin G. James: Point of order, Madam Deputy Speaker. I continually hear—

The Deputy Speaker: So, wait a minute. You have to wait until the Speaker recognises you.

And Mr. Barritt kindly sat down.

Were you finished, Mr. Barritt?

Mr. John Barritt: No, I am not finished but I am happy to yield—

The Deputy Speaker: Well you can yield when the Chair recognises a point of order.

Continue, Minister James.

POINT OF ORDER

Hon. Elvin G. James: Yes, I continually hear that Honourable and Learned Member keep saying "the Ministry cuts." I have made it quite clear that we did not cut. And we did not fund, because we did not have any request to fund. Okay?

So, let us use the right words, please.

The Deputy Speaker: Thank you, Minister James. We have already accepted that as a point of order.

Mr. Barritt—

Mr. John Barritt: It is probably my—

The Deputy Speaker: —please be careful with your language.

Mr. John Barritt: Yes. I guess I am going to have to be more careful.

The Deputy Speaker: Thank you.

Mr. John Barritt: If there is one programme that Government should support—how is that? I am putting it positive.

The Deputy Speaker: That is fine. That is most acceptable.

Mr. John Barritt: And let us keep it positive.

If there is one thing for which they should find funds, if there is one area—and there are other areas in Government that I could find, and I am not going to take the debate there right now as to where some funds could come from—this is one thing that merits. It *merits* support. And I am going to leave it there.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Barritt.

Does any other Honourable Member wish to speak to the motion that the House do now adjourn?

The Chair recognises Mr. Z. J. S. De Silva, the Minister without Portfolio and the Representative for constituency 30.

Mr. De Silva, you have the floor.

GLOBALHUE CONTRACT

Hon. Zane J. S. De Silva: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, the Honourable Member, Mr. Richards, and I believe the Honourable Member, Mrs. Gordon-Pamplin, spoke about the GlobalHue contract and how we missed out on a very good opportunity to get the very best price for Bermuda taxpayers in these very tough economic times. In fact, Mr. Richards, I think, alluded to the fact that there was tremendous savings that we possibly could have lost.

Well, you know, if the Opposition is going to pick on contracts that should be put out to tender and, we, as the Government, should not rollover a certain contract, or any certain contracts for that matter . . . Well, you know, let me name a few, Madam Deputy Speaker: The Rugby Classic, To-a-Tee Bermuda (who hosts a goodwill tournament), Philadelphia Triathlon Limited, Royal Bermuda Yacht Club. All of these contracts—which were sole sourced—are in today's newspaper as contracts that were sole sourced by this Government. Why is the Opposition not insisting that these contracts go out for tender?

Why do they not ask, you know . . . why are the Gold Cup and the Rugby Classic not put out to tender? They are sole sourced and sort of rolled over every year.

Do you know why? There is good reason for it. And I have to believe that the technical and intelligence that we had behind the decision for that rollover of GolbalHue . . . and I think Mr. Billy Griffith, the Director in the Public Accounts Meeting, gave a very good reason why that particular contract, at that time, was given sole source to GlobalHue, which was an extension—no different than the Gold Cup or the Rugby Classic.

If the principle is that better deals can be found in these very tough, uncharted economic times, where is the complaint for these contracts, Madam Deputy Speaker? Maybe they can speak to that next

week on the Motion to Adjourn, or maybe the Honourable Opposition Leader may have an answer for it.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. De Silva.

Does any other Member wish to speak to the Motion that the House do now adjourn?

The Chair recognises Mr. H. K. E. Swan, who is Opposition party leader, and the Representative for St. George's West.

Mr. Swan, you have the floor.

Hon. Hubert (Kim) E. Swan: Madam Deputy Speaker, I did not have any intention of speaking on the Motion to Adjourn, until I heard such utter nonsense.

An Hon. Member: What?

Hon. Hubert (Kim) E. Swan: I am going to give the Honourable Member . . . and the reason, Madam Deputy Speaker, I said it was nonsense was because I never thought I would live to see the day where events that bring people to our shores by local vendors would be used to defend a $28 million contract that was rolled over.

There are 14 million reasons per annum why that is different than the Gold Cup or the Rugby Classic or any other event. That is a contract where, Madam Deputy Speaker, in this particular economic climate, the Government could have saved itself millions of dollars which could have been put to use to help families, seniors, Bermudians who find themselves economically challenged, because of not only the global downturn, but also Government's fiscal indiscipline.

There are workers who have been laid off in this country. There are seniors, Madam Deputy Speaker, that are finding it difficult to cope in this country, notwithstanding the leadership by example that goes along with it. There is no comparison, Madam Deputy Speaker, no comparison whatsoever.

Certainly, there have been too many examples where the Government has made poor choices in the here and now. And for an Honourable Member—a Member who does very well in the scheme of business things in this country—to use such an example is insulting to the good people whose reputations he has called into question. I am offended, on their behalf, that he would lump them in the same category as a person who, as a company that has been called into question for the dealings on behalf of this country overseas. GlobalHue failed to comply when the Auditor was trying hold them to account to do its job. And repeatedly, the Premier—who spends very little time in this House, very little time in this country, who has caused more problems for this country than I care to deal with today, Madam Deputy Speaker . . . it is a serious problem that we have in this country. The fiscal indiscipline that this country has to contend with has been the biggest culprit, has come from the Cabinet Office, whether it be with TCD, Missions—

Hon. Zane J. S. De Silva: Point of order. Point of order, Madam Deputy Speaker.

The Deputy Speaker: May the Chair hear what the point of order is, Mr. De Silva?

POINT OF ORDER

Hon. Zane J. S. De Silva: Madam Deputy Speaker, I cannot continue to let the Honourable Member mislead the public and Members of this House.

The Deputy Speaker: And how is he misleading them?

Hon. Zane J. S. De Silva: When he makes a statement that our Premier is hardly ever in this House or ever in this country. He will go down . . . and maybe it is a bit of jealousy from the Opposition leader because he knows he will never walk in his shoes.

The Deputy Speaker: That is not a point of order. Come on. Come to your point of order.

Hon. Zane J. S. De Silva: He was misleading, certainly misleading—and he knows it—the people of Bermuda and this House when he refers to the fact that the Premier is never in this House and never in this country.

The Deputy Speaker: I do not think he said "never." He said "hardly."

Hon. Zane J. S. De Silva: Yes, ma'am. "Hardly." But I mean that—

An Hon. Member: That's not a point of order.

The Deputy Speaker: Sorry, Mr. De Silva, there would be a point of order if you could give us some figures, for instance, you know, the number of times; or, on the other hand, Mr. Swan could give some figures. But using the word "hardly" is not something you can take issue with.

Hon. Zane J. S. De Silva: Thank you, Madam. I will certainly provide mine if he can provide his, and we will rebut it.

The Deputy Speaker: We look forward.

Thank you.

Hon. Hubert (Kim) E. Swan: Madam Deputy—

The Deputy Speaker: Wait a minute!

Continue, Mr. Swan.

Hon. Hubert (Kim) E. Swan: I am sorry. Thank you, Madam Chair.

I would challenge any Member to go away, do some homework in the quietness of this weekend, and come to this House and say how many times on Motions to Adjourn that we have had to get up, that were moved by Members other than the Premier. It happens all too often. Many a weekend that is the case.

And, Madam Deputy Speaker, that was not the real point that I was speaking to. The real point that I was speaking to is the fiscal indiscipline that has been demonstrated by this Government that speaks to the heart of the matter of what the Honourable Members, Mrs. Gordon-Pamplin, Mr. Richards and Mr. Barritt, spoke to with regard to the needy in this country.

The reason the Government is unable to provide the resources needed in the community is because the Government has been wasteful, it has been spendthrift, and now the cupboard is bare. And it is at the feet of the Government.

The biggest culprit with the fiscal indiscipline has been in the Cabinet Office with the millions of dollars used on consultants—overseas consultants, in particular, Madam Deputy Speaker. Now the chickens have come home to roost and it has been very costly to this country.

Madam Deputy Speaker, it is wrong for the Honourable Member, Mr. De Silva, to try to defend a $28 million-, a $14 million-a-year contract that was not put out to tender, and to compare it with small vendors who bring tourists to our Island on an annual basis and do yeoman service for this country.

The Deputy Speaker: Thank you.

Let me just note . . . I note Members coming in the bar of the House without acknowledging the Speaker. Let us make sure that we do the proper thing from now on. Thank you.

The Chair recognises Mr. W. M. Lister, the Representative from Sandys South Central, constituency 34.

Mr. Lister, you have the floor.

Hon. Walter M. Lister: Thank you, Madam Deputy Speaker.

I think the Premier this morning gave a statement indicating that last week he went to London on Wednesday, had a meeting with the Foreign and Commonwealth Secretary on Thursday (and related members) and came back Friday morning. He was in the House later that day.

The week before, Madam Deputy Speaker, he went to the United States—

[Inaudible interjection]

Hon. Walter M. Lister: Well . . . we are going to get to that.

There is no need for the Opposition to get excited, please. We are going to give you the full story.

[Inaudible interjection]

Hon. Walter M. Lister: Take it easy, take it easy, take it easy.

The week before, he went to the United States with a similar tight schedule, but was back here on Friday. And he is a working Premier.

The Opposition doesn't have anything to do . . . the Opposition leader has little more to do than complain! He does absolutely nothing but absolutely complain. That is all he has to do.

If he had a job to do, or he had to go out and meet people to see that he could increase the tourists for this country, he too would not be here one or two Fridays.

An Hon. Member: Oooh.

Hon. Walter M. Lister: The only thing the Opposition leader has to do is complain. So that is very easy.

Madam Deputy Speaker, let me say this thing about GlobalHue. In yesterday's first historical Public Accounts [Committee] meeting which was made public, the Opposition tried to make a big hay out of this thing. But I think the civil servants made abundantly clear yesterday what the facts were.

An Hon. Member: Are you talking about Heather Matthews?

[Laughter]

Hon. Walter M. Lister: I am talking about all of the civil servants. All of the civil servants made a valuable contribution.

But the Opposition has one bent idea. They wanted to get on GlobalHue. That was all they wanted. But we wanted the facts from the Department of Tourism. We wanted the facts from Ms. Matthews. We wanted the facts from everybody.

And the Government Members listened to everybody, but the Opposition Members only wanted to hear GlobalHue.

[Inaudible interjection]

Hon. Walter M. Lister: Well, you know, we are the Government, we are prepared to take it on our shoulders, Madam Deputy Speaker.

But, because the Premier gets out, Madam Deputy Speaker—

[Inaudible interjection]

Hon. Walter M. Lister: What was that?

I am going to keep it on a higher level, Minister.

But the thing about it is that because the Premier works for the country, the Opposition leader gets ticked off. I mean, that's stupid-ness. That's crazy.

Because he works, and works, and works for this country, he tries to go all around the world interceding, getting business for Bermuda—and he does. And he gets business too!

[Inaudible interjections]

Hon. Walter M. Lister: Well, let us talk about the trip, with all of this criticism—

[Inaudible interjections and general uproar]

An Hon. Member: Jet Blue, American Airlines.

Hon. Walter M. Lister: Yes, and WestJet. Jet Blue.

You see, if he had not gone out and missed a meeting, or half a meeting from this House, we would not have WestJet, we would not have Jet Blue and all these other things—

[Inaudible interjections]

Hon. Walter M. Lister: And direct flights to Miami every day. And the Opposition . . . do you know what it is? I found out that the Opposition does not like the success of this Government. That is really what is getting them now. They do not like the success that we are getting.

Some Hon. Members: Oooh!

Hon. Walter M. Lister: Yes.

And then . . . but to talk about GlobalHue, Madam Deputy Speaker, because we rolled over the contract, it was a very difficult time. The economy was down. We had all kinds of people coming offering to do this job for us. But, we didn't know what their record was.

GlobalHue had done something constructive for the country. And the numbers were on their way up. So why would you switch a horse in midstream in difficult times?

The decision was correct to stay with GlobalHue. And next year the contract will end and we will look at it again. And if we feel that GlobalHue will make a contribution, and they go in the hat with everybody else, they will have to compete with all the other people there. And there is nothing wrong with that.

Contracts are done every day, Madam Deputy Speaker, and I think that this is the correct thing to do. And I am very happy to say that they made a valuable contribution. They increased our tourist numbers, thus far, and we will see again next year. It is not a problem with that.

Thank you very much.

The Speaker: Thank you, Mr. Lister.

Does any other Honourable Member wish to speak to the Motion that the House do now adjourn?

If there is no other speaker, the House will stand adjourned until Friday next.

[At 6:34 pm the House stood adjourned until 10:00 am, Friday, 9 July 2010]

BERMUDA HOUSE OF ASSEMBLY

OFFICIAL HANSARD REPORT
9 JULY 2010
9:30 AM

Sitting Number 28 of the 2009/10 Session

[Hon. Stanley Lowe, Speaker, in the Chair]

PRAYERS

[Prayers read by Hon. Stanley Lowe, Speaker]

CONFIRMATION OF MINUTES

25 June 2010

The Speaker: Is there any objection to the confirmation of the Minutes of the 25th of June? The Minutes for the 2nd of July are being deferred. Minutes of the 25th of June have been circulated.

Any objection?

Agreed to.

[Motion carried: Minutes of 25 June 2010 confirmed]

APOLOGIES

The Speaker: I wish to inform the Honourable House that I received communication from the Honourable Member, Mr. E. Richards, Shadow Minister of Finance from Devonshire East, who is unable to be in the House today.

Also, we received a communication from the Honourable Member from St. George's North, Deputy Speaker, Dame Jennifer Smith. The Honourable Member, Dame Jennifer Smith will, at some point, be in the House this morning, but later on in the day, she is travelling with the St. George's Foundation group to visit Jamestown, Virginia, in honour of the 400th Anniversary of the sailing of the *Deliverance* and the *Patience* from Bermuda to Jamestown.

The Honourable Member has just arrived.

[Hon. Wayne L. Furbert in the Chair]

MESSAGES FROM THE SENATE

The Acting Speaker: There are none.

PAPERS AND OTHER COMMUNICATIONS TO THE HOUSE

The Acting Speaker: Recognise the Deputy Leader, the Honourable Member Paula Cox.

BERMUDA MONETARY AUTHORITY REPORT AND ACCOUNTS FOR 2009

Hon. Paula A. Cox: Thank you, Mr. Acting Speaker.

I have the honour to attach and submit for the information of the Honourable House of Assembly the Bermuda Monetary Authority Report and Accounts for 2009.

Thank you, sir.

The Acting Speaker: Are there any other papers and communications to the House? Financial Intelligence?

I recognise the Honourable Member Mr. Scott.

FINANCIAL INTELLIGENCE AGENCY ANNUAL REPORT FOR 2008–2009

Hon. Michael J. Scott: Thank you, Mr. Acting Speaker. Mr. Speaker, I have the honour, as well, to attach and submit for the information of the Honourable House of Assembly the Financial Intelligence Agency Annual Report for 2008–2009.

PETITIONS

The Acting Speaker: There are none.

STATEMENTS BY MINISTERS AN/OR JUNIOR MINISTERS

The Acting Speaker: I recognise the Honourable Member, Mr. Walter Roban.

VECTOR CONTROL IN BERMUDA

Hon. Walter H. Roban: Thank you, Mr. Acting Speaker.

Although in recent years we have witnessed in the global media headlines reporting outbreaks of Avian flu, mad cow disease, SARs, and, more recently, AH1N1, there is a lesser publicised international public health threat that overshadows them all. That threat is mosquito-borne illness that globally accounts for more than one million human deaths every year.

I am privileged, Mr. Acting Speaker, this morning, to stand and inform you of the tireless work that goes into keeping Bermuda free of pestilence, and at the forefront of what is considered vector con-

trol, which some of us might know as pest control. But it is referred to formally as vector control.

This is a field of work that flies under the radar of many Bermudians—that is, until unlimited pests spoil family gatherings or directly result in sickness. It is the provocative efforts of the men and women of the Vector Control Programme in the Department of Health that make Bermuda a comfortable and enjoyable environment, relatively free from disease and nuisance threats from vermin.

Mr. Acting Speaker, I will take this opportunity now to explain to my honourable colleagues and those listening by means of radio what vector control is, and some of the vital roles it plays. A vector, by definition, is an organism that carries disease. And vector control is any method utilised to limit or eradicate the breeding of disease-carrying mammals, birds, insects, or anthropods.

In Bermuda, the Vector Control Programme focuses on rodent and mosquito control. Formed in 1940 by Percy Wright, a British Regiment mosquito worker, Pest Control, as it was then known, set about the task to combat a growing vermin challenge. A strategic plan was outlined for the Island to detect and combat rodents and mosquitoes. Ditches and canals were dug by hand in specific locations island-wide to drain marshes and to provide permanent habitat for Gambusia, the mosquito-eating fish.

There are still several miles of canals that are maintained in Bermuda. More recently, the Pembroke and Devonshire Marshes have been reconstituted under a revised canal plan. The canals are kept cleared of vegetation because stagnant pools of water, as many of us know, encourage mosquito breeding. Free-flowing water allows natural predators, such as fish, birds, and dragonfly larvae to keep mosquitoes in check. In addition, the Vector Control Programme deploys an organic pesticide, when needed, called Bti *[Bacillus thuringiensis israelensis],* which is a bacterial spore harmless to humans, but which kills mosquito larvae when they eat it.

In each instance, Vector Control works hand in hand with the Bermuda Audubon Society and Dr. David Wingate to ensure that environmentally sound practices are utilised and that marsh biodiversity is enhanced. Work in this area continues to reuse and maintain other existing canals.

Mr. Acting Speaker, as stated previously, disease transferred by mosquitoes is a worldwide threat, and technology in Bermuda has evened the playing field. There are five different species of mosquito on the Island, and Vector Control has focused its attention on the *Aedes aegypti,* which carries yellow fever and dengue fever. To quell the breeding of this deadly mosquito, the egg ovi-traps are used.

There are 600 ovi-traps, which consist of a dark glass bottle filled with water, and a textured paddle placed inside. This dengue-fever mosquito, if breeding in the vicinity, will lay its eggs in an ovi-trap on the paddle. These paddles are then collected weekly, and each egg is counted under a microscope.

The results of these readings are entered into computer software called the Bermuda Environmental Health Department System (BEHDS is the acronym) and manipulated to illustrate locations of interest in each parish for inspectors to investigate possible breeding sites in a 500-foot radius. Inspectors go out into the community, door to door, and inform the residents if they have breeding from standing water on their respective properties.

I can tell you, Mr. Acting Speaker, that that Department gets up as early as 6 o'clock, 7 o'clock in the morning, and they work 10 hours in a day, just to get this done. So they work very hard.

If residents are being negligent in the maintenance of their property with respect to standing water, warnings are issued and weekly visits by Vector Control are performed to follow up each cited property, with samples taken to evidence the breeding. In some cases, owners can be prosecuted if warnings are unheeded, which presents a serious health threat to the Island. And I can tell you, Mr. Acting Speaker, they leave no one unchecked, because I myself have received a warning from them about my own yard. So they go to everybody, and everybody gets warned.

[Inaudible interjection]

Hon. Walter H. Roban: No! Everybody is subject to that review, Mr. Acting Speaker. That is just proof of it, that that Department and this Government sees everybody as accountable.

[Inaudible interjections and general uproar]

Hon. Walter H. Roban: Mr. Acting Speaker, to illustrate the positive effects, the mosquito surveillance program is having a comparison. It was drawn over a four-year span. In June 2006, 118 ovi-traps collected confirmed evidence of mosquito breeding. That number of detections has fallen dramatically, to 10 ovi-traps in June 2010.

The other focus of the Bermuda Vector Control Programme is rodent control. Without a doubt, rats and mice are a cause for panic from the public, as they carry diseases such as bubonic plague, hantavirus and salmonella. Bermuda is home to three breeds of rodent: the ground-dwelling brown rat, black roof rat, and the house mouse. Rodent infestations can be identified by their droppings, urine smells, gnawing, burrows, or nests.

If rodents are suspected in an area, home, or business, Vector Control will perform an inspection of the property and results will be shared with the resident. Food sources and harbourage areas will be identified in the report, and a treatment plan identified.

Interventions include removal of food sources and harbourage, rodent proofing of buildings, and a

use of poison baits in tamper-proof boxes. The Vector Control inspector will return weekly to determine how successful the treatment has been and either continue to maintain the property or close the file.

Mr. Acting Speaker, in 2006 there were 1,078 new cases reported of rodents in homes and businesses. In 2009, I am proud to report that statistic had plummeted significantly to 458 new cases. It is clear that progress and proactive solutions are at work here in Bermuda.

The Vector Control Department is comprised of 20 staff, a supervising foreman, two general foremen, 14 level-one inspectors, two level-two inspectors, and a store man. The Programme is organised into West, Central, and East teams. Every team member is trained to address both rodents and mosquitoes in rotations of two-and-a-half days for each per week.

The members of the Vector Control Programme have expressed that increased education over the past four years has directly attributed to their success. Vector Control visits organisations and schools to give presentations on rodents and mosquitoes.

Mr. Acting Speaker, additionally, in 2002 members of the Vector Control Programme travelled to the Caribbean Epidemiology Centre (CAREC) for training in Trinidad. After the training, our team did field work and aided in the progress of the mosquito programme in Trinidad. Their efforts were so successful that members of the Vector Control Department were then seconded (and this is very important to remember) to St. Vincent and the Grenadines to give a workshop on their rodent programme in 2003. Since that time, the proposals coming out of that workshop, and the subsequent fieldwork performed in St. Vincent, have seen a mass improvement in their vector programmes.

So, clearly, Mr. Acting Speaker, we are a leader in the region in this area, and our people should be congratulated for showing the leadership that they have shown.

The Vector Control Department can only be strengthened by the reporting of rodents and mosquitoes by the public at large. Therefore, it is vital to this programme that residents take an active role in the maintenance of their properties. Personal responsibility and accountability are very important, making sure to overturn standing water, as mosquitoes can be known to breed in as little as a drop, a cap of water. With the recent rains of the last couple of days, Mr. Acting Speaker, this is so important. So it is important that people take note of these directions.

Rodents may fit through openings as small as a coin the size of a quarter. Most commonly, mosquitoes are found breeding in buckets and plant pots, and rats access homes through roof eaves and door and window screens that are not maintained.

Mr. Acting Speaker, sound and sensible daily living prevents vermin from disrupting our lives and maintains good health. It is critically important that sightings of rodents are reported and that debris and rubbish are not allowed to accumulate around our homes, as it can harbour rodents and hold standing water.

As July is Mosquito Awareness Month, we must all take an active role to *fight the bite*. Every Friday this month, members of the Vector Control team will be advertising at Crow Lane and at Flatts Village roundabout. And you may have already seen them out. So they are out doing their job.

Residents may call or e-mail Vector Control and book an appointment free of charge. Inspectors will evaluate your property and educate you on helpful solutions to eliminate any vector nuisance. Bait boxes that are used to contain rodents can be purchased and cost $15 each. Therefore, I would like to encourage the purchase of these boxes, as they are safe to use and the design prevents harm to children and curious pets.

Mr. Acting Speaker, I have some rodent boxes around my house, as well, and they are fine. So I can encourage, certainly, Members of this House and others to acquire them if they feel it necessary.

It is each and every resident's responsibility to maintain good health, and the proactive and diligent work of the Vector Control Department is the sharp end of that sword.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Minister Roban.

Any other Minister's Statements?

An Hon. Member: There is Minister Blakeney.

The Acting Speaker: First I would like to recognise Minister Michael Scott, Minister of Energy and Telecommunications.

EIU RANKINGS—BERMUDA RANKS HIGH

Hon. Michael J. Scott: Thank you, Mr. Acting Speaker.

I wish to commend the Minister of Health on that important health note relating to the important question of vector control on our Island.

I have another update as well, relative to our rankings in the Economic Intelligence Unit.

Mr. Acting Speaker, I rise before this House to inform the Honourable Members and the public that Bermuda remains in the top 25 countries in the world in the latest Economist Intelligence Unit's digital economy rankings, formerly known as the e-readiness rankings.

Mr. Speaker, parenthetically, the Deputy Speaker this morning handed me a July 2nd excerpt from the *Gazette*. It states that "All Finns to Get Inter-

net." This is a statement that indicates that, in Finland, the policy has been introduced to make broadband almost a right. And so every citizen will have the access to high-quality broadband. It does set the background to the comments I am about to share with the House this morning.

Mr. Speaker, Bermuda ranked 22nd this year, down from 21st last year, and received a score of 7.47 out of a total of 10, a reduction of .24 points from 2009. So, we have maintained our rankings in the top 25 countries in the world for maximising the use of information communication technologies, or ICT, for economic and social benefits.

We were also, by far, the smallest country in the top 25. The Department of E-Commerce continues to promote the use of ICT every day, everywhere, by everyone, which helps us to continue to feature in the top countries in an increasingly digital world.

Mr. Acting Speaker, since 2000, the Economist Intelligence Unit, or the EIU, has published an annual technology benchmarking study ranking of the world's largest economies, using a model developed in cooperation with the IBM Institute for Business Value. Previously, a country's e-readiness was derived as a measure of its e-business environment, a collection of factors that indicate how amenable a market is to Internet-based opportunities.

As this benchmark enters its second decade of existence, the digital economy rankings considers that 70 ranked countries have achieved a state of e-readiness and are making use of the rich applications and services that are available, also assessing how individuals and businesses consume digital goods and services.

Mr. Acting Speaker, given the changing technology landscape, as in previous years, the criteria used to assess the rankings have been altered so that comparisons between this year and previous years becomes difficult. And so, in 2010 the following changes were made to the assessment model:

1. A new broadband quality indicator was added, which measures a proxy for quality, the share of fibre-optic access lines, and a country's total broadband access lines.
2. A new book, mobile quality indicator, to assess the share of 3G and 4G (that is, third generation and fourth generation) mobile subscriptions in a country's total mobile subscriptions.
3. In measuring broadband affordability, the lowest DSL (digital subscriber line) connection speed for which prices were considered is now 256 kilobytes per second. This was previously 128 kilobytes per second.
4. The scoring scale for Internet use of penetration was adjusted, with 100 per cent of the population now representing the highest penetration achievable in a country. This was previously at 75 per cent.
5. Finally, the education level indicator was expanded to encompass a third sub-indicator, gross enrolment in tertiary education, which measures the number of students in higher education as a share of the total population in the relevant five-year age group.

And so, Mr. Acting Speaker, the study is divided into 6 categories assessing 39 indicators and 82 sub-indicators. Out of the 6 categories, Bermuda ranked in the top 15 in 4, which were connectivity (12th), business environment (11th), legal environment (11th), the government policy and vision (14th). And the data used in rankings were a source from the EIU's Pyramid Research, the World Bank, the World Intellectual Property Organisation, the United Nations Department of Economic and Social Affairs, E-Participation Index from the UN E-Government Survey of 2008, and others.

The Department of E-Commerce was also required to make a submission to the EIU. While the indicators may shift from year to year, the imperatives for countries to extract the maximum economic and social benefits from the use of digital technology does not change. The objectives that the EIU recommends that all countries take to heart include:

1. Ensure that the population has affordable access to the highest quality fixed and wireless data and voice connections possible. (Refer to the article I began my Administrative Statement with relating to Finland).
2. Establish the ICT as a focal point of education and ensure that students at all levels learn how to use digital technology to their benefit.
3. Make possible the wide-scale provision of goods and services online, which provide genuine utility to citizens and businesses.
4. Encourage greater innovation and entrepreneurship to create the best chances for ICT-enabled change to filter through their economy.
5. Ensure that the legal regime avoids placing undue shackles on the use of technology, while also providing adequate protection to people and organisations from its abuse.

Mr. Acting Speaker, Bermuda must continue to embrace ICT to ensure we do not fall behind our peers and competitors. The EIU's report concludes in part with the following: "Innovative digital practices and applications are, arguably, being conceived and put in practise in the emerging world faster than in the developed world." Simply put, there are no alternatives but to become more digital with whatever assets are available.

We must continue as a Government to work in partnerships with the community to create the optimal conditions for our digital economy to continue to take root, and to flourish.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Any other Ministers?

I recognise the Honourable Member, Glenn Blakeney, Minister of the Environment and Sports.

Mr. Blakeney, you have the floor.

ACCOMPLISHMENTS OF BERMUDA SWIMMING TEAM

Hon. Glenn A. Blakeney: Thank you, Mr. Acting Speaker, and good morning.

Mr. Acting Speaker, I rise today to inform this Honourable House and the people of Bermuda of the accomplishments of the Bermuda Swimming Team, which competed in the Caribbean Island Championships in Cuba last week.

Bermuda sent a team of 10 swimmers to the Caribbean Island Swimming Championships, which were held from the 28th of June until the 2nd of July. The team won 17 medals—seven gold or silver, and six bronze. Leading the team with four gold and one bronze medal was Kiera Aitken. Lisa Blackburn won three gold and one silver medal. They also combined with Rebecca Sharp and Eleanor Gardner to win the silver and bronze medals in the 4-by-100-metres medley and the 4-by-200-metres medley, respectively.

Rebecca Sharp also won a silver medal, while Morgan Hopkins, Julian Fletcher, Roy-Allan Burch, and Emma Franklin all won bronze medals.

Mr. Acting Speaker, the Bermuda Amateur Swimming Association is to be commended for their efforts to develop the sport of swimming in Bermuda. In addition to the team just mentioned, they also sent several athletes to the Coral Springs Swim Club Long Course Invitational Swim Meet.

I also take this time to acknowledge the accomplishment and to congratulate Nicky Bascome, who won a gold medal in the Fourth Annual Platinum Boxing Tournament in Orlando, Florida.

[Inaudible interjections]

Hon. Glenn A. Blakeney: And I will associate the Leader of the Opposition and the Shadow Minister.

Oh, actually, yes. This is a Ministerial Statement, sir. And you should know better, as well I should.

[Laughter]

BERMUDA TRACK AND FIELD ASSOCIATION

Hon. Glenn A. Blakeney: Yes, yes. But we all know why you are sitting in that seat now, for sure. You just confirmed it.

Mr. Acting Speaker, I am also on my feet to take this opportunity to congratulate the Bermuda Track and Field Association and the athletes who medalled during the CAC Junior Championships on July 4th in the Dominican Republic. Shaquille Dill claimed the gold medal in the under-20 800-metre event. Henry Stevens-Carty finished right behind Dill in second place for the silver medal; and promising sprinter Jeneko Place won silver in the boys under-17 200-metres and bronze in the 100-metres.

Mr. Acting Speaker, I think it extremely important to highlight the accomplishments of our young athletes particularly, who continue to excel and impress the international arena. We are extremely proud of our young sports ambassador athletes on the international sporting stage and doing so well.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Mr. Blakeney.

REPORTS OF COMMITTEES

The Acting Speaker: I would like to recognise the Honourable Member Gordon-Pamplin, Shadow Minister of Works and Engineering. Just to give you some guidance, Mrs. Gordon-Pamplin, is that the report can summarise your information. Thank you.

Mrs. Patricia J. Gordon-Pamplin: Yes, absolutely. Thank you, Mr. Acting Speaker.

REPORT OF PARLIAMENTARY STANDING COMMITTEE ON PUBLIC ACCOUNTS FOR 2007 AND 2008

Mrs. Patricia J. Gordon-Pamplin: Under the provisions of Standing Order 34(3) of the House of Assembly, and on behalf of the Chairman, I hereby submit for the information of the Honourable House of Assembly the Report of the Parliamentary Standing Committee on the Public Accounts for the Financial Years ended 31 March 2007 and 31 March 2008.

Mr. Acting Speaker, by way of précis of this Report (because it is a little voluminous), I would just like to highlight some of the areas with which the Committee had issue or concern.

Your Committee, Mr. Acting Speaker, met some 15 times since the last report was tabled in this Honourable House, and we confronted many issues. Primarily, the major point of concern was in item 2 of the Report, in which the Committee delved into the qualification of opinions by the Auditor General on these financial statements and highlighted that, when auditors qualify financial statements, for whatever reason, it is a very serious matter.

We wanted to . . . Obviously, this Report goes to the Finance Minister for response. But what we wanted to point out is that the audit qualification of government entities is an important concern because, as we have seen in the case of the Bermuda College, the inability of the Auditor General to verify expenses totalling more than $6 million is a matter that is very material to the public purse. Similarly, the inability to verify claim expenses on the Government Employees

Health Insurance Fund to the amount of $30 million is proof of very serious internal control problems in those entities.

The Committee has made many recommendations respecting the deficiencies that we discovered, and, within due course, the Finance Minister will respond and give us their take on the recommendations.

The next area of major concern was that with respect to the Ministry of Works and Engineering, the new police and court building project. Mr. Acting Speaker, your Committee identified a number of unsatisfactory issues, listed:

- The bidding procedures—which did not follow standard protocols.
- The winning bid was not complete when it was awarded.
- The advice of the technical officers of the Works and Engineering Department was sought and given, but apparently ignored.
- Advance payments of $600,000 to assist the contractor in maintaining positive cash flow, which seemed to be against financial instructions.

Your Committee recommended that in future, in an effort to improve transparency and to remove lingering concerns, a notation should be added to the file as to why decisions that were made by Cabinet differ from the recommendations of the technical officers.

We noted that financial instructions were contravened throughout the entire process, the most egregious of which are that the Attorney General did not vet the contract, as required in financial instructions; that Government, in its haste to want to show tangible progress on the site before the December 2007 election, so the job actually commenced before the contract was signed; and that there were payments that were inappropriately authorised by the Permanent Secretary of Works and Engineering to Landmark Lisgar without architectural approval.

The most important and perhaps public matter respecting this, you will recall, Mr. Acting Speaker, was the issue of bogus checks that reared their head during the process. And the Committee made the determination to delve very deeply into the circumstances in order to be able to bring the matter to light and to show that there was certainly nothing untoward on behalf of either the Premier or any Government Minister in the process.

We basically determined that the questions were, How did the bogus checks payable to E. Brown and D. Burgess appear? How did they get into the files? Who had access to the file? Were they actually presented to a bank for cashing? Were the checks paid? Or who was the likely culprit who would have had a motive to do such?

The Committee concluded that the bogus checks may have been placed in the file by disgruntled former members of the construction team to embarrass senior government officials. Your Committee also noted that there was concern about the suspension of the chief architect. And we understand that, upon completion of the investigation, he was fully reinstated to his position within the Ministry.

We go on to another area, which is supervision by Works and Engineering. Financial instructions, Mr. Acting Speaker, require that all capital projects over $50,000 be supervised by the building professionals at Works and Engineering. Your Committee had noted that the resurfacing of the runway at the Bermuda Airport, the new pier at Dockyard, the renovations at public golf courses, and the building of the TCD facilities all should have been under the supervision of Works and Engineering, but instead this responsibility was transferred to the Minister of Tourism and Transport. This is the only Ministry where this practise occurred.

It had been argued that the Tourism and Transport hired specialised expertise for the resurfacing of the airport that was not available within the Works and Engineering Ministry, and, therefore, the supervision by W&E was not appropriate. The point was valid. However, the argument was not valid with respect to the other projects. Not only does Works and Engineering have the capability to supervise the other projects, Works and Engineering also provides a natural external check and counterbalance to an operative department in helping to protect against irrational exuberance, as the Committee has called it.

Again, this action is contrary to financial instructions, and your Committee concluded that a mere mention of the transfer of oversight responsibility from Works and Engineering to Transport and Tourism in the notes to the budget book was not proper authorisation for the action. Your Committee has made recommendations in this respect.

Another area that was covered by your Public Accounts Committee, Mr. Acting Speaker, was the area of the Department of Tourism. This has also gained additional, voluminous coverage in the press recently, based on the fact that there has been a subsequent follow-up public meeting, the first of which has been held by the Public Accounts Committee in public. However, the main areas of the BDoT review, as we interviewed the civil servants, were that financial instructions were ignored to the extent of the placing of contracts with successful vendors without the necessary bidding going in accordance with financial instructions.

We noted that the term of the original contracts to GlobalHue for the advertising contract for the BDoT was renewed without any kind of ability for other agencies to bid upon it. There was no tendering process whatever. The contract was, in fact, rolled over in the name of continuity.

Your Committee had to recommend that the financial instructions be amended immediately to re-

quire that all contracts in excess of $50,000 be put out to tender, and that is for openness, for transparency, and for the ability to get the best bang for the buck for the public from the public purse.

The concern that contracts were not vetted by the Attorney General seemed to have a common theme, as we had seen it in the case of the court building, and we were particularly concerned that this very crucial step is being missed along the way. Further, we looked at a value-for-money perspective, because GlobalHue, having gotten the contract, effectively was the middleperson and passed on the significant portion of the work to Cornerstone, and that Cornerstone did not really appear, from our observations and interrogations, to add any value to the BDoT, because GlobalHue actually took over the functions that they had subcontracted out to Cornerstone very seamlessly upon the cessation of the original contract.

The Committee was able to determine that documentation for billings was not kept, contrary to financial instructions. And we just wanted to highlight that the Permanent Secretary for Tourism confirmed that she had not received any pressure from anybody with respect to the decisions that were taken within the Ministry regarding either contract placement or rollovers, and, as such, is the individual fully responsible for the failure to follow financial instructions.

Mr. Acting Speaker, we spoke to the PS of the Ministry of Finance with respect to cost overruns. One of the functions of the Public Accounts Committee is to review any matters that may help to improve the efficiency of the Public Service, particularly within the context of the issue of value for money. The perennial cost overruns and ex-post facto budget supplementaries are evidence of a systemic problem with the budgeting process and the discipline, or lack thereof, that follows the approval of the estimates by Parliament.

There appears to be a culture of casual regard for Parliamentary-approved budget parameters throughout the Service. This trend is both unsatisfactory from a management-control viewpoint and is alarming from the viewpoint of democratic authority over public funds.

Mr. Acting Speaker, although the Ministry of Finance is supposed to exert budgetary constraints on all other ministries, your Committee has observed a sense of duality of purpose among senior staff (i.e., a concern for delivery of service as well as the adherence to targeted budget constraints).

The duality of purpose at the Finance Ministry, in particular, is inappropriate and has interfered with its primary purpose; and that is ensuring that the various ministries do not exceed their budget allocations.

The Financial Secretary has indicated that there are steps in place to bring sanctions to offending permanent secretaries who do not remain within the constraints of their budget allocations, and the Committee will be following up to find how the practical application of these steps will be actually implemented.

We noted that zero-based budgeting has not brought about the kind of budgetary discipline that had been hoped for. And, while the procedure should allow each Ministry's budget to be rebuilt from the bottom up each year, in many cases this did not appear to be so. In defence of the overruns, Mr. Acting Speaker, the Financial Secretary showed the Committee that budget supplementaries have existed for many years. The introduction of zero-based budgeting, with its in-built new constraints and controls to replace incremental budgeting, was designed, among other things, to reduce or remove the problem. Cost overruns, however, continue and, in fact, have become more chronic.

There appeared to be a silo mentality that does not allow the bottom-up budgeting process to be appropriately moulded by the overall strategy set by Cabinet. There did not seem to be sufficient concern in the Finance Ministry about the increase in the size of government and/or the civil service. The prevailing notion that the size and cost of Government should grow in proportion with the GDP is a false concept. The size of government can be measured as a percentage of GDP, but that does not mean it should intrinsically be dependent on GDP. The size of government should be dependent on the services that it is required to provide. Such services would more likely be tied to population size than to GDP.

In any case, this prevailing notion is a very poor background upon which to control government spending.

Mr. Acting Speaker, your Committee recommends that the Ministry of Finance initiate a high-level review of its policies and procedures as it relates to the efficacy of the budget process and the policing of the budget limits approved by the Legislature.

Mr. Acting Speaker, in conclusion, your Committee wishes to record its appreciation on the advice and cooperation of both the former Auditor General Mr. Larry Dennis, and the current Auditor General Mrs. Heather Jacobs Matthews, and their staff throughout its deliberations. Also, of the assistance of the various heads of department and their staff who appeared before your Committee, and also of the extensive work done on behalf of the Committee by the Deputy Clerk to the Legislature, Mr. Clark Somner.

Your Committee would also like to acknowledge the contributions of its former member, the Honourable Zane De Silva, who served on your Committee and contributed to these deliberations until he was elevated to the lofty heights of Cabinet.

Mr. Acting Speaker, your Committee is recommending that the Minister of Finance be requested to inform the Honourable House of Assembly of the actions to be taken on the points raised in its Report. And we take the opportunity to point out that the de-

liberations with respect to any of the issues contained herein are not necessarily finalised by the issuance of this Report, as the responses may elicit further questions, as well as we still reserve the right to delve into any area notwithstanding whether it may already have been covered.

This Report is respectfully submitted and signed by the Honourable Member, Mr. E.T. Richards, JP, MP, the Chairman of the Committee; Mrs. Patricia J. Gordon-Pamplin, JP, MP, Member of the Committee; Mr. Walter M. Lister, JP, MP; the Honourable Patrice K. Minors, JP, MP; and Ms. Lovitta Foggo, JP, MP, all Members of your Public Accounts Committee.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Honourable Member.

I recognise the Deputy Premier, the Honourable Paula Cox, Minister of Finance and Economic Development.

Ms. Cox, you have the floor.

SUSPENSION OF STANDING ORDER 14(1)

Hon. Paula A. Cox: Thank you, Mr. Acting Speaker.

I move that Standing Order 14(1) be suspended to enable me to present a communication to the House.

RESPONSE TO REPORT OF PARLIAMENTARY STANDING COMMITTEE ON PUBLIC ACCOUNTS FOR 2007 AND 2008

Hon. Paula A. Cox: I have the honour to attach and submit for the information of the Honourable House of Assembly a Minister of Finance Response on the Report of the Parliamentary Standing Committee on the Public Accounts for Financial Years Ended March 31st, 2007, March 31st, 2008.

And since, Mr. Acting Speaker, you would want me to give also a summary, let me begin.

I am certainly grateful for the opportunity to respond to the Public Accounts Committee Report. The Government appreciates that this process is an important component of the financial reporting accountability cycle, and we will fulfil our duty to ensure that Government's financial reporting is raised to its optimal level.

Although to reply to the Public Accounts Report on the same day it is tabled is unprecedented, the strategic importance of information being in real time is so key that, based on the Auditor General's Report, the Ministry prepared a template to respond to the Public Accounts Committee in short order.

And I took the time to confirm with the Speaker that I could, if at all permissible, seek to respond immediately so that the Report and its response could be considered in tandem. It avoids unnecessary misstatement and hysteria-inducing misleading headlines and radio and television news programmes. And I am certainly grateful for the direction and assistance of the Honourable House.

Mr. Acting Speaker, when the Auditor General tables a report, it clearly is automatically referred to the Public Accounts Parliamentary Standing Audit Committee. The Committee then selects the portions it wishes to scrutinise and calls public servants from audited organisations to appear before it to respond to the Auditor General's findings.

This Public Accounts Report is an historical document. And while media reporting of the Public Accounts Committee Report conveys a sense of immediacy, nothing could be further from the truth. Yet too often, the Public Accounts Report is thought to represent the status quo, when in fact it has been overtaken by events, and real progress has occurred. In fact, usually, Mr. Acting Speaker, by the time a Public Accounts Committee Report is released, more than two years have lapsed. And very often, Government officials or boards of public-sector entities who have the fiduciary responsibility for their own accounts have taken action already to address weaknesses or to make enhancements to financial systems and controls.

And as a Government, Mr. Acting Speaker, we have expended considerable effort to address the outstanding recommendations of the Auditor General, and we have set a realistic timetable for action and committed to effecting systemic improvements to Government's accounting and financial control systems. Some of these are as follows:

- The Accountant General has concluded the implementation of a Government accounting infrastructure that involved placing qualified accountants throughout Government at the departmental or Ministry level to ensure financial controls are improved and accounting needs are met;
- Coordination of Government's financial direction by bringing together key accounting personnel within Government and in the quangos for quarterly strategy meetings;
- Providing additional resources within the Accountant General's department to improve operations, accounting systems, and the internal control environment across Government;
- Reestablishment of the internal audit function;
- Executing a risk assessment of the entire Government of Bermuda to identify, categorise, and prioritise the risk;
- The updating of financial instructions;
- The establishment of the Debt Enforcement Unit and the timely completion of the Consolidated Fund Financial Statements, which is the fund through which Government conducts the majority of its transactions; and certainly,

- The focus on bringing various public funds and Government-related entities' financial statements up to date in an auditable condition.

Mr. Acting Speaker, we certainly agree with the Committee that the qualification of financial statements is a very serious matter. And the qualification of the 2008 accounts of the Consolidated Fund represented the first time in eight years that these accounts have been qualified. And, even though the Government did not fully agree with the qualification on the accounts, this Government will take the required steps to ensure that this qualification is removed in the future in the same manner that actions were taken and the accounts were qualified in 2000 and on other previous occasions.

Mr. Acting Speaker, you may be aware that the Auditor General has tabled his special report setting out the reasons for the qualification in the Audit Report on the Financial Statements of the Consolidated Fund, and, certainly, the Public Accounts Committee has reviewed this special report and identified the issues raised. These items are addressed later in my response, and these points will be addressed in the relevant section of the report, including input from the relevant and accountable Ministries and Ministers.

For the sake of good order and completeness, I wish to note that the above qualification was based on the Auditor General's opinion that there were deficiencies in internal controls of a certain expenditure, some of which related to subsequent events after the Government's financial year end. In the Government's view, the rationale for the qualification was not persuasive. But this was an issue in the Auditor's remit, not the Government's. However, I want to make it pellucidly clear that the Government fully understands, respects, and values the role of the post of Auditor General. And certainly the reasons for the qualification of the accounts of the Consolidated Funds are addressed in my substantive response.

It should also be noted that with regard to the actual auditing of outstanding accounts, the Government approved the Auditor General's request for additional budgeted funds for fiscal 2007/08 and will continue to work with the Auditor General to ensure she has adequate resources to fulfil her important mandate.

Mr. Acting Speaker, while the Accountant General's department does not itself carry out or oversee capital works development, given some of the recent issues, enhancements are being provided to assist ministries, and the level of controls are being further refined. While there are already robust controls, some of the recently highlighted deficiencies indicate that some ministries would benefit from some additional project management support.

Further, to ensure that our fiscal control model ensures full compliance with International Best Practise, the Accountant General plans to use management levels to provide an additional review of large-project payments, as a tertiary review when the requests for payments are provided to their offices. The Accountant General works closely with the recently established Internal Audit Department to ensure controls are in place and regularly monitors large-project payments, as well as others.

In addition, the Accountant General's office will also look to work with the relevant Ministry or department controllers to ensure the Accountant General is provided with project payment schedules and the relevant supporting information and ongoing project progress information, so the propriety of payments can be reviewed.

I should note, Mr. Acting Speaker, that the Ministry of Finance very recently completed a diagnostic review of a collection of recent capital projects, including the second cruise pier at Dockyard, the Police Magistrate's court building complex, and a number of other projects. The purpose of the review was to examine existing processes for design, planning, procurement, conflict of interest disclosure, and award of contracts against International Best Practice, and thereby identify areas of improvement.

I can certainly share at this time that recommendations have been made with respect to project planning, project management, and procurement, including a transparent process for the identification of potential conflicts of interest.

Mr. Acting Speaker, the Department of Tourism has reviewed the report of the Public Accounts Committee and has submitted their replies to the Ministry of Finance, and we have included them in this formal response. And you will see this in the report when it is tabled, in terms of the response.

Section 96 of the Bermuda Constitution recognises the dynamic nature of budgets, and the Constitution provides for supplementary estimates to be presented to the House of Assembly for authorisation, either before the commitment of expenditure or after the funds have been spent. Indeed, the Constitution does not make judgment about additional budgetary spending; it simply requires that it should be authorised either before the funds are committed or spent, or as soon as practical thereafter.

The Committee, Mr. Acting Speaker, spoke of "perennial cost overruns" in a most unhelpful light. Budgeting is not an exact science, and the actual record will show that the additional budgetary spending has been kept to tolerable margins in the general range of plus-3 per cent, except for a handful of years when there were unusual, underlying factors.

Mr. Acting Speaker, I recently returned from a joint Bermuda–Bahrain conference on financial services and had an opportunity to speak with the Bahrain Minister of Finance on a number of matters, including budgeting and cost control. And I was certainly struck by their process, which allows for varia-

tion in spending while the approved targets up to a range of plus-3 per cent. And if the project programme spending is beyond that parameter, then it must be approved in their legislature—sensible approach, and it takes account of the dynamics of the budgeting process.

Mr. Acting Speaker, the Committee spoke of a "duality of purpose" in the Ministry of Finance. The Ministry of Finance does not monitor or control service delivery within other ministries. That is their remit and responsibility. However, the Ministry of Finance does require ministries to report on the performance of their services during budget preparation period in order that they can ensure value for money and ascertain the effectiveness and efficiency of their delivery of service. And that is exactly what the zero-based budgeting process is intended to achieve.

It is the Ministry of Finance policy, and ministries are directed at all times to rank programme priorities so that it is clear which programmes are at risk of not being funded when the budget approval process has concluded. And ministries and departments are given the flexibility to transfer funding to accommodate their priorities, which they continuously utilise, as evidenced by the number of virement requests and approvals.

The ZBB process is a tool designed to identify and rank priorities in order to allocate resources most effectively. It is not a control mechanism tool. And it certainly assists Cabinet and managers in identifying higher priorities and funding them.

Mr. Acting Speaker, the reality is that in most countries governments face pressure to adopt more and more programmes and to increase spending. In general, government expenditures tend to rise as a percent of GDP. And in comparison with developed countries, the Government sector in Bermuda remains small relative to the size of the country.

I am so very pleased that the meetings of the Public Accounts Committee are now open to the public. This will improve transparency and also assist the Government when responding to the Public Accounts Committee Report. In particular, it is hoped that Government will now be willingly provided with Minutes of all meetings held by the Public Accounts Committee in the interest of full transparency.

And, Mr. Acting Speaker, the Government clearly appreciates the efforts of the Standing Committee on Public Accounts to strengthen the Government's accountability to Parliament and to enhance the Committee's contributions to public policy and administration, which are highly valued by the Government. And the Government fully supports the Committee in fulfilling its important mandate.

To this end, the Government will continue to work with the Committee and respond to its reports and requests for information in a manner that appropriately respects the respective roles of Cabinet, Ministers, and public servants within our system of responsible government.

Mr. Acting Speaker, the Government is committed to strengthening the way in which it manages and controls Bermuda's public finances. And I have every confidence that continued improvements will be achieved.

Thank you, Mr. Acting Speaker. I am so happy to have given this summary. Thank you.

The Acting Speaker: Thank you, Deputy Premier.

QUESTION PERIOD

The Acting Speaker: No questions?

CONGRATULATORY AND/OR OBITUARY SPEECHES

The Acting Speaker: The Chair recognises the Honourable Member Cole Simons.

Mr. Nelson H. Cole Simons: Thank you, Mr. Acting Speaker.

I rise to showcase the achievements of a number of young Bermudian males. And top on the list today is one Kevin Minors, a recent graduate of Warwick Academy. I work with his mother at the Bank of Bermuda. Kevin was recently accepted at Oxford University, and he evidently is the first in the 400-year history to be accepted from a high school in Bermuda directly into Oxford. Most people go the boarding school route or a college route to get into Oxford, but not this young man. And I want to commend him. He got 41 points with his IB programme, and it shows that, you know, we have some shining stars when it comes to Bermudian males, and it is not all that bad.

So again, I would like to commend him and wish him all the best. He will be studying mathematics and actuarial science, and, in fact, he is all lined up for a job already. So again, I commend him and his family. I would like to associate my colleague Ms. Pat Gordon-Pamplin, all of us in the House of Assembly, on this success.

I would like to also send congratulations to Stephen Caton. Steven became the Chief Operating Officer of KPMG. He is a CA by training. He was head of operations at City Hedge Fund. He was head of quality assurance with Citigroup's local hedge fund service division. And he has been, you know, working hard. And it has just shown that success does come through hard work, and there are opportunities for our young Bermudians.

Mr. Caton was in the Army for 17 years, and recently he retired as major—again, another young Bermudian male who is doing well.

I would like to go on to Mr. Andrew Parsons. Mr. Parsons, another Bermudian male, he became

President of BELCO recently. He joined in 1990 as an accountant, worked his way up to the Executive Vice President. And again, I wish him all the very best.

We have another young Bermudian, Michael Daniels, who became Senior Vice President of BELCO (I'm almost finished), Senior Vice President of BELCO's Engineering and Environmental Group. He will be responsible for energy planning for all of Bermuda. So, I would like to wish him all the best. He started at BELCO in 1989 as an apprentice. And again, through hard work, success he has achieved.

I wish them all the very best.

The Acting Speaker: Thank you, Mr. Simons.

I recognise the Honourable Member Mr. Lister from Somerset.

Mr. Lister, you have the floor.

Mr. Dennis P. Lister: Thank you, Mr. Acting Speaker.

I would like to be associated with the remarks that were just said by the former speaker in regard to the accomplishments of all of those young men.

Mr. Acting Speaker, I rise this morning to ask this Honourable House to join me in sending congratulations to the Somerset Cricket Club. And I pause a little bit, because normally this time of year when we are sending congratulations, it is in reference to Cup Match and all that. But we are a little ahead of our time right now.

[Inaudible interjection]

Mr. Dennis P. Lister: Well, a little ahead of our time at this moment. But last weekend, the Somerset Cricket Club took time out to honour people in the Sandys community. They had a gala Night of Champions. And most of the times when the club has these types of events, you would think they were recognising sportsmen and athletes who have contributed to the club over the years. But this time, they took time out to honour leaders in the community. And it shows the influence that the club has in the community, and they just wanted to recognise some of those members of the Sandys community who have paved the way and given great contribution to the community.

Mr. Acting Speaker, there were some 12 persons who were recognised for their outstanding contribution in the Sandys community. There was Rev. Betty Furbert-Woolridge, Mr. Quinton Williams. And of course, Rev. Furbert is from the religious leadership that she has provided. Mr. Williams had given commitment to his club and what he has done for Somerset as one of the stalwarts behind keeping the club going forward. There was Ms. Gloria Smith, who was one of the business champions for her business that she is running in the Sandys community for a number of years now, and the success that she has had there.

There was Ms. Yvette Brangman for her commitment to sport. Ms. Brangman is one of the persons behind the scenes that keep the sport going at Somerset, one of the scorekeepers at Cup Match, in fact. But she has given years of commitment to the club. Dr. Glenn Bascome for his commitment to education and for the leadership that he has provided as an educator in the Sandys community. And he has had some 40 years—I should say 40-plus years—of teaching at Sandys Secondary. There is Pastor Steven Jones, again for the spiritual leadership that he has provided in the Sandys community.

They also recognised Mr. Tony Lopes for his business leadership that he has provided; Mrs. Margaret Mendez for her educational leadership in the community; Ms. Selena Simons for social work in the community; Lynette Raynor, Pastor Lynette Raynor for her religious leadership; and of course, Mr. Clyde Best for his outstanding athletic accomplishments not only in Bermuda, but internationally. As we all know, he was the one who broke the colour barrier in football and in England back in his early days when he first went off to England to play. And he has paved the way for the number of young black sportsmen we see playing football in England today.

And lastly, in the political leadership, they recognised one of our own, Mr. Walter Lister.

I would just like to have the Honourable House join me in sending congratulations to each of those, and the club for taking time out to recognise the individuals, as well as Cellular One, in that Cellular One was the chief sponsor for that evening. Thank you.

The Acting Speaker: Any other Members?

I recognise the Honourable Member, Minister Mr. Derrick Burgess.

Mr. Burgess, you have the floor.

Hon. Derrick V. Burgess, Sr.: Thank you, Mr. Acting Speaker.

I would like to be associated with the remarks concerning Andrew Parsons at BELCO. Also, Mr. Acting Speaker, I would like for this House to send condolences to the family of Dennis Leroy (Mouth) Bascome, who passed, who was funeralised yesterday. Mr. Bascome was a stalwart in the Bermuda Industrial Union and also a long-serving employee of the hospital. He certainly will be sorely missed by his family and friends. Thank you.

The Acting Speaker: I would like to recognise Dame Jennifer Smith. You have the floor.

Hon. Dame Jennifer Smith: Thank you, Mr. Acting Speaker.

I rise just to congratulate young Oronde Bascome on being the captain of the St. George's winning Cup Match team. Thank you.

The Acting Speaker: Anyone speaking for Somerset?

[Laughter and desk thumping]

The Acting Speaker: Minister James, you have the floor.

Hon. Elvin G. James: Thank you, Mr. Acting Speaker.

I would like to be associated with the congratulations that went out to Mr. Stephen Caton and Mr. Andrew Parsons, and also to Mr. Kevin Minors. And, you know, Mr. Minors is a young man. And as the Honourable Member on the other side said, I knew them all. I knew his father, grew up with his family in Warwick. And it was often that his dad would speak proudly of his son. And wherever you see success like this, I also want to say congratulations to the parents for the job that they have done—fine job that they have done.

But the amazing thing about Kevin is how he actually got into Oxford. He went there, he was interviewed, and then he had to score a 7 on the math test that they gave him, which is the highest score that you could possibly get. And he did it! It is amazing to know that we have young people in our midst that are doing this here.

And I just congratulate him, and his family, on what he has done, and encourage him in all his efforts in the future. Thank you, Mr. Acting Speaker.

The Acting Speaker: Any other Members?

I do recognise the Honourable Member, Minister Gordon-Pamplin.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Acting Speaker.

I would just simply like to be associated with the congratulatory remarks for both Stephen Caton and Drew Parsons. It is interesting with Stephen Caton because his father, Mike, who has recently deceased, actually was a senior responsible for the accounting department of Butterfield & Steinhoff, which actually ultimately merged into KPMG and with whom I worked for the 10 years that I worked for that particular organisation.

Stephen came behind his father and studied accounting, apart from his exploits in the Bermuda Regiment. But it was interesting that Stephen Caton and I, what we had in common was that we both had the privilege of being highlighted in the first *Reconnect* magazine, which was put out by KPMG in honour of their alumnae. And Stephen Caton and I were both highlighted in that magazine for our public service.

So, I am just thrilled to bits that Stephen has reached the level that he has reached in a company where he actually . . . when he started coming through the door he was a little guy at the hands of his dad. And I am very, extremely, extremely proud of him.

And similarly, within the profession of accountants, you will know, Mr. Acting Speaker, that Drew Parsons is one of those people that has worked hard. And he has now achieved the level that he so richly deserves. And I would just be remiss if I did not associate myself with remarks of congratulations to both of those young men.

I did ask to be associated with remarks to this young student. Going off to Oxford is in itself something that many of us can only hope to read about, because we are not likely to achieve that benefit. And to see just the natural promotion of a young Bermudian man to be able to be selected by such a prestigious institution, we can only but wish him well at a time when we sit and question ourselves as a community in terms of, where are our young black men going? And I can tell you that this young man is a shining example and certainly can set the trail for where our black men and our young men in general have the ability to go. They can elevate themselves to whatever altitude they so choose. And this is certainly a young man setting a shining example and a beacon of light for anybody who aspires towards further education. Thank you, Mr. Acting Speaker.

The Acting Speaker: Would any other Members like to speak?

The Chair does recognise Honourable Member Randy Horton. Mr. Horton, you have the floor.

Hon. K. H. Randolph Horton: Thank you, thank you. Good morning, Mr. Acting Speaker.

I would certainly like to associate myself with the remarks in reference to young Kevin Minors and the trail, indeed, that he is blazing. And I hope that we will have many of our young people who see this as a way to go and will actually develop the kind of determination and attention to detail necessary to be able to achieve what he has achieved.

Mr. Acting Speaker, I would also ask that this House send condolences to Mr. Harold Dudley Frith who lost his wife, Mrs. Helen Frith, this week. And also Mrs. Gordon-Pamplin would like to be associated with that. Mrs. Frith [was] a lovely lady who lived in the road just above Rose Hill. In fact, it is Leacraft Hill Road just above Rose Hill. And so condolences, please, to Mr. Frith.

The Acting Speaker: I recognise the Opposition Leader, the Honourable Member Kim Swan. Mr. Swan has the floor.

Hon. Hubert (Kim) E. Swan: Yes, Mr. Acting Speaker. Thank you very much.

I would like for a suitable letter of congratulations be sent to Mr. Earl Bailey and the organising committee of the Belmont Manor Hotel reunion that

took place a couple of Saturdays ago. For many that would remember the Belmont Manor has a long and proud history of providing service to our tourist industry, and indeed the former staff members of that organisation gathered. There were people that worked in the hotel industry from the '40s, '50s, '60s, '70s, '80s, right up to the '90s when it did close down. It is now transformed into a new organisation in the same location.

But those proud members that made up that hotel that are still around, are people that know the industry, that were proud of making the tourism industry what it was and what it could be in the future. And I just want to salute those persons for feeling it not robbery to get together to celebrate and provide us with an opportunity to be in their midst and fellowship once again.

I am very grateful for those persons because they had a very positive influence on my life, as they did on many others—Bermudians in the industry who know the industry, love the industry, and made an invaluable contribution.

Also, Mr. Acting Speaker, I would like for a suitable letter to be sent to the organisers of the Portuguese community headed by Mrs. Lucy Almeida [PHONETIC] who was corresponding on behalf of that community who was corresponding on behalf of that community who every year organised a *Divino Santo Cristo* celebration, which is a religious celebration recognising a divine intervention which occurred in Portugal to Queen Isabella. It is a celebration which has been going on for some 15 years in the town of St. George's. It has grown from very humble beginnings to the celebration which is embraced by all the community. I was proud to be a part of it and thank very much that community for inviting me. And I look forward to it continuing. Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Honourable Member Mr. Swan.

The Chair recognises Honourable Member Mr. Zane De Silva. Mr. De Silva, you have the floor.

Hon Zane J. S. De Silva: Thank you, Mr. Acting Speaker.

I would just like to be associated with the congratulations to Mr. Andrew Parsons. I did ask to be associated when the Honourable Member, Mr. Cole Simons, was speaking. But he was obviously a little excited and did not hear me. So I would certainly like to be associated, especially since he is a former classmate of mine. Thank you very much.

The Acting Speaker: Thank you, Mr. De Silva.

The Chair recognises the Honourable Member Mr. Shawn Crockwell. Mr. Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Thank you, Mr. Acting Speaker.

Although I believe the Honourable Member Mr. Simons associated all Honourable Members with the congratulatory remarks to Mr. Kevin Minors and his family, it would be remiss if I did not stand. I think that we in this Honourable House quite often, and justifiably so, speak often about those who are not doing so well in our community. And I think we all should join in in the congratulatory remarks to Mr. Minors. This is an extraordinary accomplishment, Mr. Acting Speaker.

And, on a day when we are debating the Parental Responsibility Act, I think it is ironic that we are acknowledging this accomplishment, because, surely, young Mr. Minors could not have achieved this without the support, without the positive influence and supervision of his parents. And so his parents should be certainly congratulated on this historic accomplishment.

And if I may, with your permission, Mr. Acting Speaker, just read the remarks that were reported in today's *Gazette* from Mr. Minors to his peers. He says: "Concentrate on what is important to you and focus on it. Sort out your priorities, and everything else will fall into perspective. It is a matter of motivating yourself. Don't let external forces lead you astray. Keep yourself motivated. And once you can manage that, nothing can stop you."

And so we are to congratulate him for being such a positive role model. Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Mr. Crockwell.

Any other Members?

The Chair recognises the Honourable Member Mr. Grant Gibbons. Mr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Yes, thank you, Mr. Acting Speaker.

I also rise because I think it is important to recognise the accomplishments of Mr. Kevin Minors. A number of Members have spoken on it, and I would like to be associated with those congratulations.

But I actually took particular note of the fact that his expertise (if I could put it that way) is mathematics. That is a relatively rare skill. And I think it is important—

The Acting Speaker: It is like mine.

Dr. the Hon. E. Grant Gibbons: Well, Mr. Acting Speaker, you can put yourself in the same category if you would like.

[Laughter]

Dr. the Hon. E. Grant Gibbons: But I think perhaps, at his age, he certainly has distinguished himself. And I think it is useful to know that. Oxford is a very special place, and I think here is a young man who will, obviously, take full advantage of that.

Mr. Acting Speaker, while I am on my feet, I would also like to be associated with the congratulations to Mr. Andrew Parsons. I have known him for some time. He has worked very hard. He is a quiet individual. He is very determined, but he has obviously been very successful in what he has done. I think I would also like to be associated with congratulations to him in his new capacity.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Mr. Gibbons.

Moving on.

MATTERS OF PRIVILEGE

The Acting Speaker: There are none.

PERSONAL EXPLANATIONS

The Acting Speaker: There are none.

NOTICE OF MOTIONS FOR THE ADJOURMENT OF THE HOUSE ON MATTERS OF URGENT PUBLIC IMPORTANCE

The Acting Speaker: There are none.

INTRODUCTION OF BILLS

The Acting Speaker: Minister, you have the floor.

PROCEEDS OF CRIME REGULATIONS (SUPERVISION AND ENFORCEMENT) AMENDMENT ACT, 2010

Hon. D. Neletha I. Butterfield: Thank you, Mr. Acting Speaker.

The Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act.

This Bill seeks to prevent money laundering and terrorist financing in Bermuda by establishing a joint board of the Bar Association and Institute of Chartered Accountants.

Thank you, Mr. Speaker, on behalf of M. J. Scott, spokesperson for the Ministry of Justice.

NOTICES OF MOTIONS

The Acting Speaker: There are none.

ORDERS OF THE DAY

The Acting Speaker: I believe the Orders 1 and 2 will not be done. But from the Second Reading (for number 3) of the Bermuda Immigration and Protection Amendment (No. 2) Act, 2010, put through by the Minister of Health, spokesman for Labour, Home Affairs and Housing. Minister Roban, you have the floor.

SECOND READING

BERMUDA IMMIGRATION AND PROTECTION AMENDMENT (No. 2) ACT 2010

Hon. Walter H. Roban: Thank you, Mr. Acting Speaker.

I wish to move the Bill entitled Bermuda Immigration and Protection Amendment (No. 2) Act, 2010, and that it now be read a second time.

The Acting Speaker: Any objections?

Agreed to.

Minister, you have the floor.

Hon. Walter H. Roban: Thank you, Mr. Acting Speaker.

I wish to introduce for the Second Reading the Bill entitled the Bermuda Immigration and Protection Amendment (No. 2) Act, 2010, together with associated regulations, namely, the Bermuda Immigration and Protection (Tourist Accommodation and Hotel Residences) Regulations, 2010; the Bermuda Immigration and Protection (Land-holding Charges) Amendment Regulations, 2010; and the Bermuda Immigration and Protection (Rental and Use) Amendment Regulations, 2010.

Mr. Acting Speaker, just as a matter of guidance to the House, I am going to, in my presentation, deal with all of the Bill and the Regulations because there is a level of collectivity that is with all of what I have just announced. So, as not to confuse Members in that, my brief will discuss the Bill, but also the connecting Regulations.

Hon. Trevor G. Moniz: Mr. Acting Speaker, a point of order. If the Honourable Member is—

The Acting Speaker: Let me just recognise you first.

The Honourable Member, Trevor Moniz, point of order?

POINT OF ORDER

Hon. Trevor G. Moniz: Yes. I think the Honourable Member needs to request the permission of the House to do what he is doing.

An Hon. Member: That is what he just did.

Hon. Trevor G. Moniz: No, he did not. He did not at all. But if that is what he intends to do, we so agree on this side, provided you agree, Mr. Acting Speaker.

The Acting Speaker: Yes. I believe I did hear the Minister ask for permission of the House. Thank you.

Minister, you have the floor.

Hon. Walter H. Roban: Thank you, Mr. Acting Speaker. If I have been allowed to conclude, I would have said that I was requesting the House to do such.

I was merely articulating to the House and the listening public what I am doing because of how I have introduced my presentation. I do hope that is helpful to the House, Mr. Acting Speaker. And I hope that what I am attempting to do will be helpful, not only to the Opposition, but also members of the public. And I will certainly seek to be as clear and transparent as I can.

So, if I have the permission of the House for how I have just made my request, Mr. Acting Speaker, I have taken guidance from the Speaker and his team on this matter, and I have been advised that how I am seeking to do this is appropriate.

With your permission, Mr. Acting Speaker?

The Acting Speaker: Go ahead.

Hon. Walter H. Roban: Thank you.

This Bill amends the Bermuda Immigration and Protection Act 1956, the principal Act; the Bermuda Immigration and Protection Amendment Act 2007, and the Hotel Concessions Act 2000, to permit restricted persons, including exempted companies, to acquire leasehold interests in residential units forming part of a hotel development that are designated by the Minister responsible for Immigration, including tourist accommodations available for short-term occupancy and hotels residences available for long-term occupancy.

The Bill lifts the territory restrictions in Part 6 of the principal Act to allow hotel properties to be purchased by restricted persons and to allow Bermudians who purchase them to sell them to restricted persons.

Mr. Acting Speaker, in the last decade numerous recognised international hotel brands have diversified their product offerings to augment traditional hotel activity with more innovative products that attract investment from individuals. In Bermuda, the Tuckers Point, the Reefs, Belmont and Newstead are examples.

But, Mr. Acting Speaker, if you allow me to just momentarily read a list, in that when I say that this is an international trend, I can give information that reflects that, such as the Park Hyatt Residences, the Hilton Grand Vacations, and Ritz-Carlton Residences in North America. And, as I have been just kindly informed by my honourable colleague, the Fairmont, also, has ventured into this area.

In the Caribbean, in particular, the Ritz-Carlton and Hilton Grand have expanded their products in this area. The Hilton Grand Vacations in Mexico, the Ritz-Carlton in the Bahamas, Grand Cayman in Mexico, Turks and Caicos, Puerto Rico, and US Virgin Islands are all involved with this area of business that we are looking to ensure these changes will allow our Bermuda properties to, in the future, be more competitive in this area.

It is a growing market, and it is important that we be competitive and be able to compete with those jurisdictions which I clearly outlined are our main competitors.

Of such properties that have successfully rebranded their resorts (those properties I have mentioned) to offer ownership in fractional condominium and leaseback units, Mr. Acting Speaker, you will be aware of the negative impact of the worsening global economy on hotel development generally. Hotel development portfolios have particularly been affected by more cautious lending and market conditions that do not favour resort development.

While personal investment in luxury homes and tourism developments has decreased, companies are using the economic downturn to streamline operations, invest wisely, and innovate to achieve portfolio growth, including looking to invest in stable commodities like real estate. Similarly, as companies have streamlined, executive rentals of over $10,000 a month are no longer feasible for some managers and permissible to shareholders. However, those employers in Bermuda must continue to provide suitable housing for their staff, as is required.

Mr. Acting Speaker, you will be aware that there is currently a moratorium on the sale of land to restricted persons until we can confirm that the land currently owned by restricted persons has not exceeded the territorial restrictions. And we have had quite a bit of debate on this issue here in this House already. However, the Government has sought to find ways to stimulate the investment in new tourism developments that are planned, while offering an alternative to exempted companies to find new ways to house their staff while streamlining their costs.

The current and proposed tourism developments are built or being built mainly on land that is leased by the Government to developers. And their hotel management companies or the total acreage is already counted as land owned by restricted persons.

The Bermuda Immigration and Protection Act 1956 already stipulates that such land is not included in the territory restrictions. Licences granted to restricted persons for units purchased in a hotel development are, in respect of leasehold interests, for an average period of 151 years, depending on the period specified in the Hotel Concession Order granted for the relevant development. Therefore, any relaxation of

restrictions regarding tourist developments will not increase the amount of land owned by restricted persons.

Mr. Acting Speaker, our current legislation and related policies only allow the purchase of hotel units by restricted persons who do not reside in Bermuda. Those persons who buy one of the units are considered visitors and can only stay in properties for a maximum of 90 days. I am pleased to announce that our legislation will recognise a new type of product offering that developers will be making available for sale to both individuals and companies, known as hotel residences. So that is the new product, Mr. Acting Speaker.

Unlike other hotel products, owners of a hotel residence can live full-time in the unit, which does not become part of the hotel inventory. Owners of the hotel residence can live in the residence if they possess Bermudian status; they are permanent residents, or persons who have the Minister's permission to reside in Bermuda. Alternatively, owners can leave the property to persons in those categories. Where a hotel residence is leased, the proposed amendment allows for the lease to be up to 10 years, which can be renewed if permission is sought from the Minister.

Mr. Acting Speaker, some may fear that this is the beginning of gated communities in our Island. This is not the case. The Regulations specify that there must be a hotel component in any development that is designated as a tourism accommodation. This will allow companies to take advantage of the hotel amenities for their staff. They will also provide an additional investment opportunity for Bermudian owners who may want to rent or lease the unit back to the hotel.

Mr. Acting Speaker, as you are aware, the principal Act does not control Bermudians. Therefore, while restricted persons who are residents were not allowed to purchase units in hotel developments, Bermudians were always free to do so. However, Bermudians could not sell their units to restricted persons. In fact, the 2007 amendment Act currently only allows licenses to be issued on the first disposition of a hotel unit directly from the developer.

The amendments that are being debated today seek to allow for a second and subsequent disposition of hotel units to Bermudians or restricted persons, thus increasing the marketability of the units in tourist developments.

I will now go on briefly to set out what else the amendments and associated Regulations attend to achieve. We cannot ignore that the tourism market is very competitive, particularly when comparing Government fees—[such] as landholding charges and stamp duty and other Government charges—with other tourist destinations offering similar products. A review of the fees charged by our competitors revealed that Bermuda's landholding charges and stamp duty fees were almost double—I repeat, double—the next-highest jurisdiction, and triple the cost of most.

To entice investments in tourism developments in Bermuda, the Bermuda Immigration and Protection (Landholding Charges) Amendment Regulations, 2010, will reduce the landholding charges from 10 per cent to 0 per cent for those units where the owners elect to lease back their units to the hotel when they are not using them. We have also reduced the landholding charge for other tourist accommodation at hotel residences within a tourism development, to 6.5 per cent from 18 per cent. This charge is applicable whether it is a first or subsequent disposition. These fees are not retroactive, but will be chargeable from the date of commencement. Essentially, the landholding charges will be 0 per cent for any unit that remains part of the hotel inventory, and will be 6.5 per cent when it is not part of the hotel inventory.

Mr. Acting Speaker, let me go on about the next piece of Regulation, the Bermuda Immigration and Protection (Tourist Accommodation and Hotel Residence) Regulations, 2010, which enshrines in law what up to now has been defined in policy. They regulate the acquisition and use of properties designated by the Minister responsible for Immigration as tourist accommodation and hotel residences. Their proposed regulations recognise the ability of companies to purchase tourism accommodation or hotel residences, provided the development has all the facilities and features of a hotel, such as a restaurant, a reception office and housekeeping buildings. In addition, a certain amount of rooms constituting hotel inventory must be allocated.

Unlike hotel residences, tourist accommodations are allocated for owners who are visitors (not residents) and their family and guests. As visitors, they may only remain on the Island 120 days in the calendar year and cannot exceed six months in any 12-month period. In contrast, hotel residences may be occupied by an individual for his or her own use, or by an exempted company, who may allow the residences to be occupied for a period not exceeding the term of the licence by persons possessing Bermudian status, permanent residents, persons who have the Minister's permission to reside, or transient guests.

Mr. Acting Speaker, I now wish to discuss the Bermuda Immigration and Protection (Rental and Use) Amendment Regulation, 2010. Its purpose is to regulate the way in which licensed land may be utilised, including prohibiting or permitting renting out or use of profit. The Regulations exempt the requirement for permission to be sought by a restricted person from the Minister prior to entering into a rental agreement with Bermudians, permanent residents, rental by persons with the Minister's permission to reside, or transient guests in respect of tourist accommodation and hotel residences.

With those introductory remarks, I wish now to move that the Bill be discussed along with the associ-

ated Regulations which I have outlined. And I look forward to hearing the interesting discussions from colleagues of the House.

Thank you very much.

The Acting Speaker: Thank you, Minister. And we are talking about items number 3, number 4, 5, and 6.

Would other Members like to speak to that? Honourable Member Trevor Moniz, Shadow Minister of Justice.

Mr. Moniz, you have the floor.

Hon. Trevor G. Moniz: I speak in this place for the Opposition for Home Affairs and Immigration, Mr. Acting Speaker.

Mr. Acting Speaker, this legislation here, as the Honourable Member noted, we discussed in the last several weeks the other provisions to do with immigration. This would seem to me to be a complete contradiction to what we have heard from the Government for the past several weeks—and not only for the last several weeks, but since 2007.

Since the Bermuda Immigration and Protection Act of 2007, we have heard successive Ministers of Immigration stand up in this House and fulminate how they are going to protect Bermudians with respect to landholding in Bermuda, that they are not going to permit non-Bermudians to come in and buy property in Bermuda.

And we have had this discussion before, that back in 2007 the Government was trying to address the problem of fronting, whereby Bermudians were effectively purchasing land that they were not permitted to buy; that those Bermudians were also avoiding paying the revenue which Government was due if they were allowed to buy properties, which was now up to 18 per cent on condominiums, 25 per cent on properties.

This was a major plank in the Government's public policy for this country—that they were going to prevent non-Bermudians from buying land in Bermuda. Now, of course, after 2007, after the Honourable Member who spoke in this place for the Government has said, there is a worldwide recession. There is a deep recession in Bermuda. And this House will know that we on this side, and I in particular, have been urging Government to revisit that 2007 legislation because we are now out of our housing bubble and now into a housing recession.

So, then we fast-forward to the bundle of legislation that is being debated on the Order Paper today from number 3 through number 6. And this, of course, is throwing the barn doors wide open. Not only are non-Bermudians being invited to purchase condominiums, but all sorts of new products are being created so that non-Bermudians can now purchase all sorts of units within what are designated as hotel developments.

Not only are they being permitted to buy condos and to buy hotel residences, but they are being told that they can buy these for 0 per cent—no tax! No Bermudian is allowed to do that with regular housing. So what is this going to do to the regular housing market that is already in a deep recession?

POINT OF ORDER
[Misleading]

Hon. Walter H. Roban: Point of order. Point of order, Mr. Acting Speaker.

The Acting Speaker: A point of order.

Hon. Walter H. Roban: The Honourable Member is misleading the House. There was no suggestion . . . there are certain landholding charters which are being exempted here in certain situations, but there is no exemption from taxes that are related to the purchasing and transfer of land. Let us make that clear.

The Honourable Member is misleading the House if he goes down that line. And I would ask that he refrain from that.

The Acting Speaker: Minister, you have heard that.

Hon. Trevor G. Moniz: Yes.

Mr. Acting Speaker, that member is wrong. He has specifically said—and I can quote to you and read from the legislation where the landholding charges have been reduced.

He himself said they reduced the landholding charges from 10 per cent to 0 percent if the owners elect to lease back to the hotel. So schemes are being developed to make Bermuda more competitive.

He said himself, he said the charges—Bermuda's charges—were almost double the next-highest jurisdiction and triple most jurisdictions. So the idea is to reduce the costs for non-Bermudians to purchase condominiums, to purchase hotel residences, et cetera, to encourage them to invest in hotel developments in Bermuda. That is the thrust of this legislation.

Now, if the non-Bermudian, who last week was told, you know, *We have all this legislation to stop you from investing in local real estate,* the non-Bermudian—he works for an exempt company—so he turns around this week and says, *Oh, that's wonderful. My employer, an exempt company, can now buy a hotel residence.* And what's the landholding charge? It's zero!

So what are you going to do? You are going to effectively—

Hon. Walter H. Roban: Point of order, Mr. Acting Speaker.

POINT OF ORDER
[Misleading]

The Acting Speaker: Point of order. Minister, what is your point of order?

Hon. Walter H. Roban: Landholding charges will be zero, as I have outlined, if there is a choice of the owner to provide it back to the hotel property. And it will be counted as a part of the hotel beds available. It is not a blanket zero charge.

Again, the Honourable Member is misleading the House and the public with these utterances. And this is clearly outlined in my brief.

The Acting Speaker: Mr. Moniz, you have the floor.

Hon. Trevor G. Moniz: Mr. Acting Speaker, I made very careful note, that the Minister was not so courteous as to provide me with a copy of his brief. But I made a very careful note.

Even in other cases, they have reduced the landholding charge to 6.5 per cent from 18 per cent, whether it is on a first or subsequent disposal, if not part of the hotel inventory. These charges are being reduced. If a non-Bermudian—let us say a non-Bermudian, which they can still do—a non-Bermudian buys a condominium unit in a Bermudian development (i.e., not within a hotel development; let us say a Cloverdale or something of that sort, Inwood or whatever), he would presumably pay 18 per cent.

Now, this is an inducement for that person, instead of investing in an Inwood unit or Cloverdale or whatever, to go and buy in a—and he listed them. I think the Minister listed them. He said Tuckers Point, the Reefs, Newstead. He said that this is a clear inducement—he should not mislead the public—a clear inducement for those people, instead of buying one of those units, to go and buy a unit in a hotel development, and that is the inducement. And the idea behind the policy, we are being told, is to stimulate investment in hotel properties in Bermuda and to make Bermuda a more competitive jurisdiction, vis a vis what are seemed to be our competitors mainly to the south of us.

Now, I do not think that is misleading the public. That is what the Minister said.

And the effect of that, surely with respect to the local market, is that it is going to cause the local housing market, which is already in recession, to go into a far deeper recession. And so all of those Bermudians out there who have taken up the generous facilities from local banking institutions over the last five or ten years (and, you know, I have certainly observed it in my legal practise, people taking up facilities, mortgages, loans, et cetera) have been borrowing up to 100 per cent, 120 per cent on their properties, financing those with being able to rent those apartments, mainly to exempt company people. And the general market through that housing bubble was very strong.

But now we are in a recession. Those people are not going to be able to pay their mortgages. You are going to see more and more nonperforming mortgages. I know so far the banks have been very delicate about indicating how many mortgages and loan repayments have been nonperforming, in arrears, et cetera. This is going to worsen that situation, unless we have some other stimulus to that market to balance up what we see here.

Now, you know, during that fronting thing . . . And at the end of the day, what I also see here is a reduction in Government revenue. When you reduce the charges, the Government is therefore going to get less revenue. So I do not see this as a positive for the local housing market. The local Bermudian is going to be hit, because the apartments, the houses that rent locally are going to be relatively that much more expensive.

And what we are doing here, we are creating a dislocated economy. This is exactly what the World Trade Organization spoke about in terms of world trade and services, saying you must have the same rules for your locals as you have for everyone else. You must not have a two-tier economy, must not have second-class citizens. And what you are doing is making Bermudians second-class citizens in their own country while you encourage hotel developments.

Now, you know, the Minister named three very particular developments. And we have some information on those developments. From the information I have gleaned, these people are saying this is certainly not a solution to the malaise that affects the tourism industry. Under this Government, the tourism industry has gone down and down and down in terms of hotel beds, hotel nights, visitors to Bermuda who spend the dollars, as opposed to the cruise visitors who do not take up hotel rooms and do not spend nearly the amount of money in this jurisdiction that hotel visitors do.

The hotel owners say this is not the answer. We know that some of these, particularly the three mentioned, are in severe financial difficulty. It comes late for them. They may be able to benefit from it if this is successful. But it is not a long-term solution. It is one of these Band-aid approaches, and it is going to damage the local market. It is going to damage Bermudians. It is going to cause Bermudians to be unable to pay their mortgages. And we on this side are not convinced that Government has thought through this part of their public policy.

And it is in complete contradiction to the public policy outlined last week and in the last several weeks by the same Ministry who says we must protect all this land for Bermudians and protect the investment of Bermudians in Bermuda. And now we are seeing effectively just the opposite. Bermudians are being . . . their investments are being eroded in local

real estate. And there is going to be a terrible price to pay.

Hon. Elvin G. James: A point of order, Mr. Acting Speaker.

The Acting Speaker: Point of order.

POINT OF ORDER

Hon. Elvin G. James: Yes. I think the Minister has already spoken this already. But in case it was not understood—and the Honourable and Learned Member on the other side made a reference to condos and the land tax.

What is happening here is that, when you buy a fractional, or whatever, you cannot sell it. So what is happening, there is a trade-off here. You cannot sell it. And during the time when you are not there, you have to lease it back to the hotel. So there is a trade-off. Yes. No condo is going to do this. You do not lease it back. You are in there 12 months of the year. It is yours. You can sell it. But there is a total difference between the two. And I cannot understand how this comparison is taking place on the other side—totally not apples and oranges.

The Acting Speaker: Member?

Hon. Trevor G. Moniz: Thank you, Mr. Acting Speaker.

The Minister for Education, the Honourable Member who just spoke, has a point there. And I admit he has a point. But this legislation goes far beyond the fractional units. It also goes to the sale of condominiums within tourist developments, long-term, I think up to 131 years. And it also goes to something new which is created, which are hotel residences. So it goes to all three.

Now, there are the categories—and the Honourable Member who spoke, the Minister of Health, who speaks in this place for Immigration, pointed out various reductions in the landholding charges. And in one case there is a reduction from 18 [per cent] to 6.5 [per cent], and it went down to zero if it was part of the hotel inventory, presumably if it was available for rental to hotel guests.

But we on this side point out that there is, even in those cases, where units are leased back to the hotel for hotel rental, subject to easy abuse. It is a very easy way of people reducing their tax by saying it is available for rental by the hotel. But as we know, if hotels . . . let us say hotels are in a very poor state, as we know the tourism industry is in this country. So let us say the hotel has 20 per cent occupancy rate. So you lease your unit back to the hotel for rental, but there is no one to rent it. So what happens? It is easy abuse there. There is easy abuse. You could drive a horse-and-four through these Regulations.

If again, there is not in place . . . as we know so many things in this country, you put all these rules in place. But if there is nobody to enforce the rules, then you are going to get people who abuse the rules, which is exactly the problem that we faced with the fronting, which went on for years and then grew like topsy out of total control until we saw the draconian legislation introduced under the Bermuda Immigration and Protection Act of 2007. This likewise is going to be a framework of very complicated legislation, which is offering very strong inducements to non-Bermudians through exempted companies, in particular, to invest in hotel developments to the detriment of the Bermudian housing market, to the detriment of Bermudians, and giving them the inducements of either paying very low landholding charges or, in fact, paying zero landholding charges.

And this is in complete contradiction of Government-stated public policy with respect to the ownership of land in Bermuda. And on this side, we are very sceptical of what we see before us today.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Would any other Members like to speak to the motion?

I want to recognise Honourable Member Zane De Silva.

Minister, you have the floor.

Hon Zane J. S. De Silva: Yes, Mr. Acting Speaker. Thank you.

The Honourable Member that just took his seat finished with saying that it is a detriment to the Bermuda housing market. I disagree, Mr. Acting Speaker. This initiative is for condos for non-Bermudians in the hotel development. In fact, *in fact,* I think it is going to help our Bermudian people.

He also said that, you know, this is making Bermudians second-class citizens. Again, I disagree. This is an initiative that is can only enhance Bermuda.

And he mentioned the reduction in revenue. We may have reduction in revenue on one side, Mr. Acting Speaker, but what about the increase on the other side? If we had non-Bermudians purchasing these units and coming to spend time in Bermuda throughout the year—not just maybe two or three, four days at a time, but maybe several weeks at a time, maybe several months at a time—think of the revenue that would be generated for Mr. and Mrs. Bermuda.

So, on those notes I totally disagree with the Honourable Member. And just one other point I would like to add is, the Honourable Member mentioned tourism down, down, down. All we have is our cruise ships. Well, in case the Honourable Member did not realise it, every tourist destination in this world is struggling. Every one of them is struggling. And we are no exception, no exception whatsoever.

And do you know the old saying is, *A half a loaf is better than no loaf at all?* If we did not have the

cruise ships here at this present time, we would be really struggling. So let us be thankful for the little bit of business that we have that the—actually, it is not a little. It is a lot of cruise ship business that we have. Thank goodness we had the foresight to build the dock up in Dockyard like we did, because if not, we would not have those ships here, Mr. Acting Speaker.

[Inaudible interjection]

Hon Zane J. S. De Silva: Yes. Thank you very much. There are cruise ships in Bermuda every day. And we even have some coming into Hamilton. Without the cruise ship—ask all the Front Street merchants, Mr. Acting Speaker, what they would do without the ships in Bermuda. They would be struggling.

So, let us be thankful. And let us not mislead the people of Bermuda when we are trying to increase and enhance our tourism product overall.

The Acting Speaker: Thank you, Minister.

Would any other Members like to speak to this motion?

We will recognise the Honourable Member Mr. Grant Gibbons.

Mr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Acting Speaker.

I think it is probably pretty clear so far that there are two ways, at least, of looking at this amendment we have got in front of us and these Regulations. Clearly, if you are a hotel developer at the present time or a hotel owner, you have a significant number of fractional units which are unsold or condominiums which you have developed and they are unsold, then this is a positive thing. I think that the main impact of this—and I will take a couple of the pieces here. But I think the main impact of this is to lower the landholding fees because that has been, I think, a bit of an impediment, particularly in the current economic climate we have got.

So, in terms of the discussions that we have had with some of the hotel developers, some of the hotel owners at the current time, I think they are generally in favour of this because, whereas before you may have been paying landholding fees of 10 per cent on the first sale, the subsequent resale, as Honourable Members will know, was 18 per cent. So a lot of the sales, particularly those to savvy buyers, they were concerned about the liquidity of the fractional unit of the condominium, their ability to be able to resell it, because, even though it was 10 per cent on the first go-round, it would have been 18 per cent on the second go-round.

So now that has been reduced, at least if they are occupying it themselves, to 6.5 per cent, I think that certainly makes it more competitive and the resale is the same. So it has injected some liquidity into the market.

I guess the down side of this (and my honourable colleague has certainly mentioned it, and I think we are very disappointed on this side) is that this is clearly going to have an impact on the housing market. It is clearly going to have an impact on sort of the hotel residential market. But there was nothing that came with the Honourable Member's introduction of this which would suggest that they actually looked into this in any kind of major way.

There was no indication, for example, of what the tax totals would be for Government in terms of the fees on the sale to non-Bermudians. We know in the last few years, for example, in 2008–2009, Government, as part of its revenue, got something like $16 million; in 2009–2010, that dropped to $13 million. They are budgeting in this particular budget year $11 million as fees that they will recoup from the sale of land, that licence fee to non-Bermudians. And obviously, now, we are extending it to companies, both local and exempt as well.

So, where is the economic analysis here? Because this type of legislation, I think, requires the Government to provide, to look at the economic impact of that. We have certainly heard it from one side, which is that this is going to benefit hotel developers and hotels. I have no doubt about that.

But what is the impact going to be on the housing market? My honourable colleague, Mr. Moniz, I think, was very clear that there is another side to this. And that is, what about the local housing market as well? What about, in the current economic climate, landlords who have tenants who have moved out of apartments? They are having difficulty re-renting those. They may be getting a lot less than they were before. Obviously, there are two sides to that as well.

But the fact of the matter is, this is now allowing another market to open up here that normally may have come to those Bermudian landlords, and they would have been employees of exempt companies, employees of local companies. Basically, this seems to me to be essentially tearing the bottom out of the local housing market in many respects as well.

But, Mr. Acting Speaker, what we have seen so far are purely qualitative arguments. There does not seem to have been any analysis as to what the likely impact is here. When we started to talk to some of the exempt company associations like ABIR and ABIC, it did not seem to be on their radar screen at all. Some had heard about it, but there did not seem to have been much consultation. Now, I do not know whether the Government, whether it is the Ministry of Finance, the Ministry of Labour and Immigration, had talked to some specific companies, but there just did not seem to be a lot there.

Clearly, this provides them with a different avenue now of housing for their employees. It provides them with the ability to invest in these hotel resi-

dences and these sorts of resort properties in a slightly different way. But it also means that they will no longer, to the same degree, be looking to fulfil those housing needs in the local market as well and there is clearly going to be an impact there.

So, part of what I think is really bothering me about this is, I just do not get a sense that there has been a thorough analysis. On the surface of it, if you are a hotel developer or you are in the hotel business and you have got a lot of unsold inventory, it certainly sounds very good. But I did not get a sense that the Government has really gone out and said, *How many of these residences, how many of these condominiums are you likely now to sell to international business?* The very sort of quick poll that I did, certainly, suggests that many of them do not see this as a very large market.

I guess the question really here is, you know, I think the Government has come forward with this legislation. I do not think they have really justified it in any way besides what I would call a very superficial, qualitative sense that it may help the tourism industry here because they have got a lot of unsold inventory. But it is also going to have an impact on a lot of those condominium developments out there that are having difficulty moving their inventory as well, and they do not come under the tourism, the hotel aspect of this.

I guess the question is, Where is the beef here? really, in terms of the careful economic analysis that we would expect if you are going to basically perturb the housing market and essentially the hotel market in the way that this Government is doing.

Mr. Acting Speaker, I am not sure how you are going to handle this. Obviously, we are speaking generally to the points here. We have got to go into committee for some of these pieces of legislation. But there are also essentially regulations here. Are you going to have an individual debate on those?

The Acting Speaker: Yes.

Dr. the Hon. E. Grant Gibbons: You are?

Okay. All right. So there will be opportunity to ask specific questions about—

The Acting Speaker: Each one.

Dr. the Hon. E. Grant Gibbons: —three or four sets of regulations here.

The Acting Speaker: Yes.

Dr. the Hon. E. Grant Gibbons: Okay. I am pleased to hear that.

But I think, generally, Mr. Acting Speaker, I think you get my point. You know, there are really two sides to this. And Government has been unhelpful in terms of providing the pros and cons of this in a way that this House and Honourable Members up here can really understand the impact of this. And I think that is really a major hole in bringing forward legislation of this particular part.

As I said, I would be interested to hear what consultation Government has actually had and what the feedback has been in terms of the international business community, because that seems to be where the Honourable Member, Mr. Roban, is actually targeting this. Our sense is, it may be helpful, but it is really hard to judge. And then there is a downside, which is what the impact is going to be on the local housing market.

I think those are the principal points I wanted to raise at this stage. Actually, there is one more point here as well. The Honourable Member said most of this has been taken out—in other words, hotel properties has been taken out of the, I think the expression is the *territorial restrictions* so far. So this is not going to add any more territorial restrictions. Immediately it came to mind the issue of Bermuda College and Coco Reef. There must be some 20 acres there which suddenly was in Bermudian hands and has now gone into restricted persons' hands in terms of the ownership of that.

So on the one hand, as my honourable colleague said, Government is saying we have got to restrict land for Bermudians. On the other hand, you know, in terms of what they are actually doing, we seem to be sort of opening the door to more and more property which is going into housing for non-Bermudians. And I think if you look at Government's record over the last 10 years, they have done an extraordinary job at creating housing for non-Bermudians; but they have done precious little to actually improve the housing for Bermudians.

Hon. Walter H. Roban: Point of order. Point of order, Mr. Acting Speaker.

The Acting Speaker: Point of order, Minister.

POINT OF ORDER
[Misleading]

Hon. Walter H. Roban: The Honourable Member is clearly misleading the House when you consider Laughlin, Butterfield Hill, Perimeter Lane, Southside development, and the 800 or more persons, families that we have enhanced with housing.

But this has nothing to do with that, this Bill. So I would hope that the Honourable Member would go back to the legislation that we are talking about, which has to do with tourist accommodations, not with public housing.

The Acting Speaker: Thank you, Minister.

Mr. Gibbons?

Dr. the Hon. E. Grant Gibbons: Yes, thank you, Mr. Acting Speaker.

You see, Mr. Acting Speaker that is the sad part. The Honourable Member does not understand that this has everything to do with the local housing market as well, and that is what we are trying to get from the Government, what the impact is going to be.

The fact of the matter is (and I maintain my position) this Government has done precious little over the last 10 or 12 years. It is almost too little, too late. The only thing that has saved this Government is the fact that we have had a severe recession in Bermuda—loss of jobs, a number of people have left the Island—and that has saved their proverbial bacon, in terms of what was a very demanding housing market beforehand.

So, given the economic timing of this, I mean, I could have seen this maybe five years ago. There would have been much more of an argument there, given the pressure, the demand in the housing market. But now you have got a situation where a lot of units are empty, as my honourable colleague said. Some of the landlords depend on mortgages, having tenants to be able to pay those mortgages. This clearly will have an impact on that. And I think it is a fair question, Mr. Acting Speaker. What is the analysis that this Government has done to sort of look carefully into this?

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Mr. Gibbons.

Would any other Members like to speak to the motion?

The Minister would like to reply.

Hon. Walter H. Roban: Thank you very much, Mr. Acting Speaker.

It is with great sadness that I have listened to the presentations of the Member on the other side, who clearly has not listened to my brief and understood what the clear narrow focus of what we are doing here is to do. And it is about enhancing the tourism development. The enhancements are restricted to tourism developments that are designated clearly as tourism developments. It is not changing the local residential market in any way. And any effects on the local residential market are, as I even discussed in my brief, with the high-end rental area of $10,000 and above, an extremely high rental area of market where this is likely to impact locally.

I can certainly say with my own experience that persons down in North Shore, persons in areas of Warwick and Pembroke and Devonshire and Sandys are not going to be the ones who are going to be negatively impacted by what we are doing. They will be enhanced by the tourism enhancements that this legislation will bring.

But despite that, Mr. Acting Speaker, I do have some pertinent information I would like to share with the House around these issues. Again, this is to increase tourism investment and tourism development, and the investment in that development. These changes are going to be associated exclusively with tourism development, not with local residential development. That is clear. So these changes can only impact that area because that is only as far as the scope of the law goes. It does not go to any other place, Mr. Acting Speaker. That has been clearly outlined in my brief.

Non-Bermudians cannot buy outside of a tourism development. So, talks about Cloverdale—it is not going to happen. It does not exist. This legislation does not even go to the scope of that. That is a local residential development. And even the reference to that does not fit within this legislation at all. It is truly a case of apples and pomegranates when you go that far, frankly.

Mr. Acting Speaker, a company can only buy four units, an interest in four units. And this is not for all their staff. Clearly, it will be for executives and other transient persons. Again, the limit is four units per company. In addition, it is aimed clearly, as I articulated in my brief—and am trying to make it clear now—at the upper market of rental or leasehold. That is who will be attracted by this. It is not going to clearly be attractive to someone who wishes to rent down in some other parts of Bermuda which are clearly residential, on the Parsons Road or some other very wonderful areas of the Island that are occupied by our residents, but the same person is not going to be attracted to go there.

So, Mr. Acting Speaker, I do hope that I have assisted the public and Members of this House with clarifying some of the points. Honourable Members must appreciate that this is focused on tourism investment, tourism development. The scopes of lifting restrictions will only pertain to those types of designated tourism accommodation and hotel residences. And those lands are already designated for that purpose.

With that, and those comments, Mr. Acting Speaker, I wish that the Bill be committed.

The Speaker: Any objections to the Bill being committed?

No objections? Honourable Member, Mr. John Barritt, takes the Committee.

House in Committee at 12:13 pm

[Mr. John Barritt, Chairman]

COMMITTEE ON BILL

BERMUDA IMMIGRATION AND PROTECTION AMENDMENT (NO. 2) ACT 2010

The Chairman: The House is now in Committee. The Chair recognises the Minister in charge of the Bermuda Immigration and Protection Amendment (No. 2) Act, [2010], the Honourable Walter Roban.

Minister Roban, you have the floor, sir.

Hon. Walter H. Roban: Thank you, Mr. Chairman. I wish to move clauses 1 through 12 as printed.

The Chairman: The Minister proposes to move clauses 1 through 12 as printed.

[Inaudible interjections]

The Chairman: The Minister has proposed clauses 1 through 12. That appears to be acceptable.

Minister, you may proceed.

Hon. Walter H. Roban: Thank you, Mr. Chairman.

The Bill amends the Bermuda Immigration and Protection Act, 1956, the principal Act; the Bermuda Immigration and Protection Amendment Act, 2007, and the Hotel Concessions Act, 2000, to permit restricted persons to acquire legal interest in residential units forming part of a hotel development that are designated by the Minister responsible for Immigration, including tourist accommodations available for short-term occupancy and hotel residences available for long-term occupancy.

The Bill lifts the territory restrictions in Part VI of the principal Act to allow hotel properties to be purchased by restricted persons and to allow Bermudians who purchase them to sell them to restricted persons.

Clause 1, Mr. Chairman, provides a short title. Clause 2 amends section 72, the definition section for Part VI of the principal Act. The amendment adds new definitions for "hotel residence" and "exempted company" and amends the definition of "tourist accommodation." The new definition of "hotel residence" now provides that for any condominium or residential unit to comply, in addition to having an individual land valuation assessment number, it must be on the grounds of a hotel and be designated as a property which can be acquired by restricted persons under regulations issued by the Minister responsible for Immigration.

We have included a definition of "exempted company" for the Part VI of the principal Act in order to tie together the amendment to the Companies Act (which I believe will be discussed later, Mr. Chairman, by the Minister of Finance) in allowing exempted companies in a limited way to acquire interest in tourist accommodation products. The definition of "tourist accommodation" now provides that tourist accommodation products must be designated by the Minister responsible for Immigration and includes condominium or residential units on a hotel property with individual land valuation assessment numbers.

Clause 3 amends section 82 of the no-offence provision of the principal Act by inserting a new provision permitting a restricted person who is an individual to rent a hotel property for 10 years or longer with the Minister's consent, without contravening the principal Act. Currently, section 82 provides a defence to restricted persons against contravening the need for land licence simply because they are a bona fide temporary occupant or tenant with a lease for the term of less than five years.

The proposed amendment provides a similar defence to restricted persons who are individuals, as opposed to companies, who lease hotel residences, who hold a lease for no more than 10 years, or who have the Minister's express permission to hold a lease for more than 10 years. This will ensure that individuals who occupy licences for long-term residential properties situated on the grounds—

[Inaudible interjections]

[Gavel]

The Chairman: Cannot hear the Minister.

Ministers!

Hon. Walter H. Roban: —on the grounds of the hotel developments are not in contravention of the law simply by virtue of their occupancy.

Clause 4, Mr. Chairman, amends section 89, the territorial restrictions provisions of the principal Act, by exempting all dispositions of interest in tourism accommodations and hotel residences from the territorial restrictions in section 89(1), not just the first disposition from the developer of tourist accommodation.

Currently, the transitional provisions in the Bermuda Immigration and Protection Amendment Act, 2007, provide that the Minister may not grant any applications for licences until 2012 unless they fall within a short list of exemptions. In respect of those exemptions, section 89 of the principal Act provides that the Minister may not approve an application for a licence in the area of the land to which the application relates and the area of all licensed land is in Bermuda, total [no] more than 2,000 acres, and if the area of land to which the application relates and the area of all licensed land in the relevant parish total no more than 400 acres.

The proposed amendments make it clear that the Minister does not have to consider the territorial restrictions in respect of an application for licence regarding the first disposition by the developer of a designated condominium unit.

They further remove the limitation to the exemption regarding tourist accommodations that applications for licences can only be in relation to the first transfer of an interest in tourist accommodation directly from the developer. Now, the Minister may approve an application for a licence in regards to an in-

terest in tourist accommodations or hotel residences, notwithstanding previous transfers of that interest between parties other than the developer.

Clause 5 amends section 92, the restrictions on acquiring condominium units provisions of the principal Act. Currently, the restrictions apply to all designation condominium units. The amendment makes it clear that the restrictions now do not apply to condominium units that fall within the definition of "tourist accommodation" and "hotel residence."

The effect of this amendment is, therefore, that these types of properties are available to a wider range of individuals.

Clause 6 amends section 92A, the restrictions on acquiring tourist accommodation provisions of the principal Act. The law currently provides that only restricted persons who are individuals may acquire designated tourist accommodation. The proposed amendments change the section by including hotel residences by allowing exempted companies to acquire designated tourist accommodation, hotel residences, and by limiting the number of properties an exempt company may acquire to four.

Thus, the effects of the amendments are to allow individuals and exempted companies to acquire interest in tourist accommodation and hotel residencies and to allow exempted companies to acquire up to four of these properties.

Clause 7 amends section 98, the licence conditions provisions of the principal Act. Currently, this is a section which imposes the condition that only one licensed property may be held by, or for the benefit of, restricted persons. In consequence of the amendment made in clause 6, that exempted companies may hold licenses for up to four tourist accommodations or hotel residence properties, this amendment makes the licence condition that limits a restricted person to one property applicable to the holding of hotel properties by exempted companies.

Clause 8, Mr. Chairman, amends section 102C of the principal Act. This section lists the matters in respect of which the Minister responsible for Immigration may make regulations subject to the affirmative resolution procedure. The proposed amendments would allow the Minister to make regulations respecting hotel residences.

Clause 9 amends section 102D of the principal Act. This section lists the matters in respect of which the Minister responsible for Immigration may make regulations subject to the negative resolution procedure. The proposed amendments would allow the Minister to make regulations designating hotel residences that may be held or acquired by restricted persons and to prescribe the minimum annual rental values applicable to exempted companies which acquire land in Bermuda.

Consequential amendments, I am going to articulate now in description, Mr. Chairman.

Clause 10 amends section 17 of the 2007 Act to exempt the acquisition of tourist accommodation and hotel residence from the freeze on the issue of licences by the Minister and provide that a licence may be granted no matter that the interest may have been transferred several times before. This allows for the Minister to approve applications from individuals or exempted companies upon the enactment of these amendments and the corresponding regulations for licenses for the acquisition of tourist accommodation and hotel residences and to allow such properties to be acquired by Bermudians, Bermuda companies, and to be sold to restricted persons.

Amendments to the Hotel Concessions Act, 2000. Clause 11 amends section 4(3) of the Hotel Concessions Act, 2000, to provide that concession orders granted by the Minister of Tourism may provide for the reduction or deferral of the landholding charges payable under section 96(2) of the principal Act and that such concession is no longer limited to the first disposition of residential units, but is now in respect of any tourist accommodation or hotel residence which is placed in the hotel inventory by the owner when not using it.

The practical effect of this amendment is to make such properties available to more persons and to encourage owners to place their properties in the hotel inventory for short-term occupancy by way of concessions on the landholding charges.

Clause 12 provides for the commencement of this Bill. It shall be operative on the day appointed by the Minister responsible for Immigration by way of notice in the official *Gazette*.

Those are clauses 1 through 12. Thank you, Mr. Chairman.

The Chairman: Thank you.

The House is sitting in Committee debating the Bermuda Immigration and Protection Amendment (No. 2) Act, 2010. The Minister responsible, the Honourable Member Walter Roban, has moved all 12 clauses of the Bill.

Does any other Honourable Member wish to speak to the Clauses?

The Chair recognises the Honourable and Learned Mr. Trevor Moniz, spokesman, I believe, for the Opposition on matters of Immigration, Housing, and Home Affairs here in the House.

Mr. Moniz, you have the floor.

Hon. Trevor G. Moniz: Thank you, Mr. Chairman.

I would just like to point out to the House that it is raining on my desk here from the air conditioning vent.

The Chairman: Collect it.

Hon. Trevor G. Moniz: We have got to get this sorted out here.

We are in Committee here with respect to this. Now, some of these—this is an entirely new regime in Bermuda law and goes entirely counter to the Government policy which has been formulated for a very long time, in my respectful submission.

Now, what concerns me is that we have here—if you look in [clause] 2 of the basic Act, the Bermuda Immigration and Protection Amendment (No. 2) Act, 2010, clause 2 amends [section] 72 of the main Act and defines a hotel residence as meaning "a condominium unit or a residential unit at a hotel." And it goes on to define it as having an assessment number, et cetera.

Now, if we go over to clause 6, which amends the main Act at section 92A, clause 6(e) creates a new subsection (2). It says "The Minister may not approve an application by an exempted company to hold or acquire an interest in more than four properties that constitute tourist accommodation or hotel residences." [And it] sets a cap on the number.

Now, as I said in the main debate, I will repeat here and hopefully get an answer in Committee: What is to stop a group of companies—and most of the major companies are made up of large groups of companies. So there might be 20, 30, 40, 50 companies . . . Can they each purchase four residences for employees? So you end up with one large group of exempt companies can buy 100 units if they so please. And what is there within the legislation to prevent exempt companies from buying large numbers of units?

I mean, one of the fears on this side is that, you know, you are creating this two-class community, and you are going to create some of the worst aspects of what we see in other places, or certainly what we do not see as Bermudian in terms of . . . and you see it down, I think, in Paradise Island, Bahamas, et cetera, where you get these gated communities, and people live within gated communities. Is this a response to the crime problem we are seeing here? So we are seeing exempt companies saying, *Well, we do not want to live out in the community. We are afraid to because there is no public safety being provided, with the shootings, gang warfare, et cetera.*

So is there some cap? Other than that cap, which in my view will be ineffective in the form that it is in at the moment—it will not be effective. And this is the risk I see. Between the twin inducement of being able to buy multiple units in a company and having to either pay a very low landholding charge or no landholding charge at all, we are going to see a major shift. And I would hate to see Government later on say, *Oh, well, that was unanticipated.* Revenue will fall. Bermudians will suffer. And they will say, *Well, we did not really think this through, did we?*

Thank you, Mr. Chairman.

The Chairman: The House remains in Committee discussing clause by clause the Bermuda Immigration and Protection Amendment (No. 2) Act, 2010.

The Chair recognises the Honourable Member Dr. Grant Gibbons.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman.

I would like to start with clause 2, which sets out the definition of a hotel residence and a tourist accommodation. And I am trying to . . . I know the drafter when they put this together has to deal with sort of a body of legislation which defines certain terms, I think, beforehand. But I would like to get a little bit clearer sense of the difference between a hotel residence and a tourist accommodation, because they are pretty much identical except for the fact that, under the hotel residence, it has to be designated as an eligible hotel residence by regulations made under a section of the Immigration and Protection Act.

So I would like to understand quite what is going on there.

[Inaudible interjection]

The Chairman: Minister, perhaps you could do that. The public cannot hear you.

[Inaudible interjection]

The Chairman: The Minister gets an opportunity to reply.

Dr. the Hon. E. Grant Gibbons: Sure. Sure. Okay.

Some of us do not look at this legislation every day. So I think the broader public can understand—

The Chairman: I think he has heard your question, yes.

Dr. the Hon. E. Grant Gibbons: Thank you. Okay.

Now, the other issue I have is, all of these sections, whether it is a hotel residence or whether it is a tourist accommodation, require an individual land valuation assessment number. And so the question I am asking is, A hotel room or suite in a hotel, that normally would not have that—is that correct? So how does that play into making sort of a suite in a hotel or an area of a hotel an allowable hotel residence or a tourist accommodation?

This gets onto my next point, which is, a lot of these hotel and resort developments have fractional units. In fact, I think it is a pretty high percentage, for example, of the Reefs or other areas. Would the fact that . . . I believe a fractional unit does not have an individual land value assessment number. Would that remove fractional units from this pool as well?

The Chairman: I am going to stop you there if I may, Dr. Gibbons.

Dr. the Hon. E. Grant Gibbons: I know you are, Mr. Chairman. I am happy to stop there.

The Chairman: We have moved past 12:30. The Honourable Acting Premier has caught my eye, knowing the hour that we usually adjourn for lunch.

Dr. the Hon. E. Grant Gibbons: Okay.

The Chairman: You can resume, and I presume you intend to resume, at 2:00 o'clock.

Madam Acting Premier?

Hon. Paula A. Cox: Mr. Chairman, I would like to move that the House do now adjourn for lunch.

The Chairman: The Acting Premier has moved that the House do now adjourn for lunch.

There being no objections, the House is so adjourned.

Proceedings Suspended at 12:33 pm

Proceedings resumed at 2:00 pm

[Mr. John Barritt, Chairman]

COMMITTEE ON BILL

BERMUDA IMMIGRATION AND PROTECTION AMENDMENT (NO. 2) ACT 2010

[Continuation thereon]

The Chairman: Good afternoon, Members.

We are still in a Committee of the whole House. We are debating clause by clause the Bermuda Immigration and Protection (No. 2) Act, 2010. The debate has been led in Committee by the Minister responsible in the House, the Hon. Walter Roban. And when we left off at 12:33 for lunch, the Honourable Member, Dr. Grant Gibbons, had the floor.

Dr. Gibbons, do you still wish to have the floor?

Dr. the Hon. E. Grant Gibbons: Yes, thank you, Mr. Chairman. I will reiterate part of the question I was asking prior to lunch.

I was on clause 2, which amends the original Act, the Bermuda Immigration and Protection Act, and it essentially in one case updates the definition of "hotel residence" by putting in a new definition. And the other definition that it amends in the original Act is "tourist accommodation."

The question I had asked before lunch was whether . . . just looking at the amendments here, it does not look like it covers fractional units. But, in fact, the technical officers were kind enough, following the lunch break, to push me back towards the original legislation which does in fact have a provision under tourist accommodation that would include fractional units.

So, that part of my question was indeed answered. We are talking about fractional units, as well as hotel residences and, of course, condominiums here.

That leads me into a second set of questions. I am up to clause 6, and my honourable colleague, Mr. Moniz, pointed out clause 6 [(e)], [new subsection (2)] where "The Minister may not approve an application by an exempted company to hold or acquire an interest in more than four properties that constitute tourist accommodation or hotel residences."

I am particularly interested in fractional units, which as you know, Mr. Chairman, involve the ownership for a portion of the year of, effectively, condominiums. So, you may get . . . I think some of the resorts here have as many as 10 fractional units for a particular set of rooms which will give you one-tenth of the year; others may have as few as four. I think the minimum you are allowed for fractionals is four, where you break up the year into four pieces. But it is an ownership piece. And, obviously, for a lot of these resort developments, it is in perpetuity.

What we are talking about here is leasehold, so the exempt company or the individual who wants to use these new amendments, obviously would not be able to own that fractional unit in freehold in perpetuity. They would have to be able to lease that space up to 131 years.

But I was trying to get an understanding from the Honourable Minister, and I am, again, back at this issue of clause 6 . . . I guess, why would an exempt company want to purchase a fractional unit where they really do not have very much control when in the year their employee or their visitors can actually use it? Because many of these fractional units have rules about a lottery as to being able to choose the best time of the year, sometimes that is summer, sometimes that is winter. Anyway, the point is that there is a lot of lack of control over when you actually get that unit.

So I am curious as to whether the Minister actually did any investigation as to whether there would be much interest in exempt companies purchasing fractional units, given the loss of control, the fact that they only get a certain portion of the year; and then they sometimes would have difficulty in actually choosing when they have it. And, of course, as we know from this they can have no more than four of these fractional units, and then I think under the fractional rules they are only allowed to have two in any case.

So, the question is, for some of these developments which only have fractionals, I guess the question is, is there any applicability here, really? Would there be much interest in that? Because my indication from talking to a couple of resort holders is

that fractionals do not really seem . . . they do not see much of a market for them with exempt business in this area.

So, one of the questions I am asking is, has the Minister really had a look at this as he pursued it? Has he gotten much feedback from the market, which would cause him to set this stuff up in the first place?

Thank you, Mr. Chairman.

The Chairman: Thank you.

We are still in Committee; does any other Honourable Member wish to speak to the Bermuda Immigration and Protection Amendment (No. 2) Act?

There are no other Members. The Chair calls upon the Minister in Charge, the Honourable Member, Mr. Walter H. Roban, to reply.

Mr. Roban, you have the floor, sir.

Hon. Walter H. Roban: Thank you very much, Mr. Chairman.

The one question that I can sort of carve out of some of what has been said during this portion is, essentially the attraction is for the developer, or the agent of whoever is marketing this product, to make it attractive. That is not the purpose of our legislation . . . is to, if you like, create a client. We are just creating an opportunity that a developer can market to an exempt company. How they market it, whether they make fractional or other disposition attractive, is up to them. That is not our job in this thing. We are just creating an opportunity through the framework of legislation to allow a certain type of development to be available. That is all we are doing.

That is the only real question that I can see has been asked around this.

The other question I believe that Dr. Gibbons [had], the Honourable Member has indicated [that it] has been answered by my technical officers. And that had to do with the definitions of hotel residents and tourist accommodations, which, when put up beside the original legislation, provides the appropriate explanation for these new definitions. With that, I wish that the—

The Chairman: Minister—

Hon. Walter H. Roban: Oh, I am sorry.

The Chairman: The Chair recognises the Honourable and Learned Mr. Trevor Moniz.

Mr. Moniz?

Hon. Trevor G. Moniz: Mr. Chairman, the Minister has a bit of a short memory.

Just before lunch I asked the question of clause 6(e), which proposed a new part of the Act, which restricted an exempt company to an interest in no more than four properties that constitute tourist accommodation. And what I had said at that time was that most of these large exempt companies consist of 20, 30 or more. So, was there any restriction going to be imposed on a group of companies, such as XL, or ACE, or otherwise, who otherwise could purchase up to, I do not know, 60, 80 or 100 units under this provision?

The Chairman: Thank you Mr. Moniz.

Mr. Minister.

Hon. Walter H. Roban: I appreciate the Honourable Member's observations, but none of these acquisitions can be made without the express permission of the Minister.

So, clearly, we will ensure that the acquisition is in keeping with how we have outlined the Law and the Regulations in that any entity that was previously restricted and which now wishes to acquire this disposition, would need the express permission of the Minister. And we will have to make sure that some of the intricate, perhaps arrangements that potentially could be done . . . that we keep track of them, and I think that will be the diligence of the Ministry—as we have to do in other areas with restricted persons, as you well know. We will have to do. But none of these acquisitions can be made without the express permission of the Minister issuing a licence to do so.

Thank you.

The Chairman: The Chair recognises the Honourable Member, Dr. Grant Gibbons.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman.

Mr. Chairman, again under clause 2, obviously there are two definitions here for "hotel residence" and for "tourist accommodation."

In the current climate, there are a lot of hotel rooms that are currently not being leased out on a normal hotel room basis, where somebody comes in and spends two or three days and then disappears. Has there been any discussion with the hotel industry where a hotelier, who is particularly hard pressed right now, might, for example, take a block of rooms, or a wing, and try and turn them into a condominium unit or this definition of hotel residence? The point being that you have to be careful of your incentives here because you might find all of a sudden that a lot of what I will call the "normal-type stay" hotel rooms start to get taken out of that group and try to turn into something which can be used for either leasing to exempt companies or to others on some kind of a basis. So you might actually find you have a further decline.

I mean, I think we have lost more than 50 per cent of the hotel rooms that we had even 10 years ago. So you may find that you have a further decline in the type of what I will call "normal weekend visitor's stay" type of room. Thank you, Mr. Chairman.

The Chairman: The Chair recognises the Minister.

Honourable Member, Mr. Roban, has the floor.

Hon. Walter H. Roban: Thank you, Mr. Chairman.

I appreciate again the effort to draw a hypothetical that might find itself sort of victim of this legislation. But the purpose is driven at increasing rooms, increasing accommodation, increasing the opportunities and availabilities within the tourism product. We are not going to . . . and none of those sorts of efforts have been entertained by us by a hotelier at this point. And, ultimately, they would have to come to us; but that is not the purpose of what we are bringing here, for them to take a hotel room and put it into a condominium. We are about increasing the availability of rooms. This is the focus on that.

As you identified, we have lost rooms in the tourism product. This is about increasing, and a certain type of restricted area we are looking to ensure that it adds to our availability of beds, not restricting or changing so that there will be less.

The Chairman: The Chair now recognises the Honourable Member, Dr. Grant Gibbons.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Yes, thank you, Mr. Chairman.

I appreciate the Honourable Member's comments on that. I am not sure I would necessarily agree with him, because I think that if you have an excess of hotel rooms now which you are not filling, you are unlikely to build more of them when you have . . . it is a supply and demand issue. But I hear the Honourable Member.

I would also ask the Honourable Member, is there a possibility, again, under this clause 2, where someone might actually try and design . . . I know it has to be, within clause 2, on the grounds or premises of the hotel. Is there a possibility here of setting up a situation where you may have one or two rooms that operate as a hotel, but the other 98 rooms are actually set up to develop to sell to international business on a leasehold basis, like sort of a corporate condo type of thing?

I am curious as to how much leeway the Minister is likely to give here to essentially try and gain these particular regulations for this amendment.

Thank you.

The Chairman: Any other Honourable Member?

No?

Minister, do you care to reply?

The Honourable, Minister Roban has the floor.

Hon. Walter H. Roban: Again, I appreciate the effort by the Honourable Member to sort of extrapolate certain possible scenarios. But this is very clear as to what this accomplishes. Any changes to the dynamic or dimension of rooms that we have available as it relates to the authority of this Ministry, everyone has to come and make an application, and these things cannot be done without us having a clear wind of what is the intention.

But, I would argue to say, and insist, that the scope of this is exclusively for what we have proposed—ensuring that certain developments are given an opportunity that were originally restricted and are within the tourist accommodation or hotel residence area to be available to interested parties effectively. The opportunities under that will be created by the developer.

Our legislation is not designed to create a market or to operate in that way, as a private, sort of, situation.

Thank you.

The Chairman: Thank you, Minister.

Does any other Honourable Member wish to speak to the clauses or have any questions?

There being no other Members and no other questions, I call on the Minister to make the appropriate motion.

Mr. Minister.

Hon. Walter H. Roban: Thank you, Mr. Chairman.

I wish to move the Preamble and move that the Bill be reported to the House as debated. Clauses 1 through 12.

The Chairman: Clauses 1 through 12 have been moved, and the Preamble.

Hon. Walter H. Roban: And the Preamble.

The Chairman: And that we report that to the House.

All those in favour, please say Aye. All opposed, Nay.

Ayes.

The Chairman: The Ayes have it.

[Motion carried: The Bermuda Immigration and Protection (No. 2) Act, 2010, was considered by a Committee of the whole House, passed without amendment, and will be reported to the House.]

House resumed at 2:16 pm

[Hon. Wayne Furbert in the Chair]

REPORT ON BILL

BERMUDA IMMIGRATION AND PROTECTION (NO. 2) ACT 2010

The Acting Speaker: The Bill has been reported to the House. Any objections?

Agreed to.

Minister?

Hon. Walter H. Roban: Thank you, Mr. Acting Speaker.

I wish to move on to . . . No, I have already done that.

Now I am going on to the next order, Mr. Acting Speaker?

The Acting Speaker: Number four?

Hon. Walter H. Roban: Yes.

The Acting Speaker: Thank you, Minister. Go ahead. Is this for Committee? We are in the House, correct?

Minister, do you want to make the motion for the regulations?

Hon. Walter H. Roban: Thank you, Mr. Acting Speaker.

I wish now to move Orders 4, 5, and 6. I wish to move that consideration be given . . . and bear in mind, I will just make it clear (because we went through this earlier today) that I am moving all three orders, but I am going to allow for debate on each of them. I am just moving them all at the same time because they are all connected—it makes sense—so that they can all be discussed. I will move all three, but I am certainly going to involve debate on each one, clause by clause.

The Acting Speaker: Minister, why don't we just move each one. I am going to ring the bells.

Hon. Walter H. Roban: Yes. But there seems to be . . . I sense some disquiet by the Opposition. I want to be helpful. So, I did not want to just go ahead without giving some explanation. But I will move Order 4—

The Acting Speaker: Order number 4 The Bermuda Immigration and Protection—

CONSIDERATION OF DRAFT REGULATIONS

BERMUDA IMMIGRATION AND PROTECTION (TOURIST ACCOMMODATION AND HOTEL RESIDENCES) REGULATIONS 2010

Hon. Walter H. Roban: I move that consideration be given to draft regulations entitled The Bermuda Immigration and Protection (Tourist Accommodation and Hotel Residences) Regulations 2010, proposed to be made by the Minister responsible for Labour and Immigration and Housing, under provision 102C(1)(a) and (ba) of the Bermuda Immigration and Protection Act, 1956.

I move also consideration be given to the draft regulations—

The Acting Speaker: Minister . . . what we will do is, sorry, move Order 4, The Bermuda Immigration and Protection (Tourist Accommodation and Hotel Residences) Regulations 2010, but we will allow you to speak to 4, 5 and 6.

Anyone can speak to that. Just move 4 at this time.

Hon. Walter H. Roban: Okay. I was just . . . because I know we have a listening public I wanted them to know what we are doing.

The Speaker: Yes. Just number 4, consideration be given to the draft regulations—

Hon. Walter H. Roban: But I am moving all three at this time.

The Acting Speaker: Right . . . no. Move only number 4, all right? But you are allowed to speak to 4, 5 and 6. Okay?

[Inaudible interjections]

The Acting Speaker: No. Only move 4.

Minister, so you have moved number 4. Any objections to the Bermuda Immigration and Protection (Tourist Accommodation and Hotel Residences) Regulations 2010?

Would any Members like to speak to that?

So do you understand, Members, what we will allow is anyone who will speak to 4, 5, and 6. But the Minister will only move number 4. Correct?

An Hon. Member: So, which one?

The Acting Speaker: I recognise the Honourable Member, Dr. Grant Gibbons.

Mr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Acting Speaker.

I actually have a question for the Honourable Member about clause 3 here. We are not going into Committee on the whole, so I am just going to ask the question now. We are into regulations here.

So, this is entitled the "Right to occupy tourist accommodation." It deals with in subsection (1) an individual who holds a license for tourist accommodation and it deals with an exempt company. But my understanding was that local companies could also par-

ticipate in this plan. I do not see anything here which effectively speaks to local company ability. Is that because it is not required to be addressed here? Or is there another reason? That is the question I have.

I think that is it, Mr. Acting Speaker, thank you.

The Acting Speaker: Would any other Members like to speak to the draft regulation entitled, The Bermuda Immigration and Protection. . . I recognise Honourable Member, Mr. Trevor G. Moniz.

Mr. Moniz, you have the floor.

Hon. Trevor G. Moniz: I am obliged.

I just want to address a general question about land-holding charges, which is in regulation 7, sub-regulation (5). It generally talks about the Minister approving a change in an election, from the election a place tourist accommodation or hotel residence and hotel inventory to an election to keep it for private use. ". . . the person who holds the licence for the accommodation or residence shall reimburse to the Government (a) the amount of relief . . ." which refers to the relief from the land-holding charges, I presume.

I guess what I am wondering is, are we going to see a situation . . . is that election a one-time election, that you can elect to change the election once? Or is it possible to change the election and then change it back again. Are you with me, Minister? Can you find the relevant regulation? You see there?

[Pause]

Hon. Walter H. Roban: Point of clarification.

The Acting Speaker: Minister?

Hon. Walter H. Roban: I would just ask for the Member to repeat his question, so I could make sure it is appropriately answered.

Hon. Trevor G. Moniz: The situation, Mr. Acting Speaker, is it puts a situation there

[Inaudible interjection]

Hon. Trevor G. Moniz: Yes, under regulation 7(5) . . . it talks about changing an election to place tourist accommodation or hotel residence in the hotel inventory, or to keep it for private use—changing your election from one to the other, and you get a refund of any charge paid.

What I am saying is, is there a situation where that election can be changed more than once? So you can change it to go from one to the other—hotel to private use, then back from private use to hotel use. You get a situation of multiple elections.

I just want for the public to know.

I am obliged.

The Acting Speaker: Would any other Members like to speak to the draft regulations?

Other Members?

Minister, do you want to respond to . . .

Hon. Walter H. Roban: Thank you, Mr. Acting Speaker.

The reality is that if someone who has made an agreement to have the disposition back to the hotel where they benefit from the total zero land-holding charges fee, but then decide to come back to private, if within the agreement they suddenly change their mind, essentially, they will then be subject to the charge. Just because they, in the first instance, went out and benefited from the zero charge, and they may change their mind to come back as a private use unit, they must pay the charge if they wish to come back, if they had already signed an agreement to lease that property or that unit back to the hotel.

So, if they move back before where they decide *I want to give it to the hotel, I want it back private*, when they decide to bring it back private, it will be subject to the charge.

The Acting Speaker: Any other Members like to speak to the Bermuda Immigration and Protection (Tourist Accommodation Hotel and Residency) Regulations, 2010?

Minister, would you like to move the motion for consideration of the draft regulations title?

Hon. Walter H. Roban: I wish to move that the draft regulations be approved and a message be sent to the Governor.

The Acting Speaker: Any objections?

No objections.

[Motion carried: Draft Regulations: Bermuda Immigration and Protection (Tourist Accommodation Hotel and Residency) Regulations, 2010 approved.]

The Acting Speaker: [Order] number 5, Minister.

BERMUDA IMMIGRATION AND PROTECTION (LAND-HOLDING CHARGES) AMENDMENT REGULATIONS 2010

Hon. Walter H. Roban: Yes.

I move that consideration be given to draft regulations entitled, the Bermuda Immigration and Protection (Land-Holding Charges) Amendment Regulations 2010, proposed to be made by the Minister responsible for Labour and Immigration and Housing, under provision 102C(1)(a) of the Bermuda Immigration and Protection Act, 1956.

The Acting Speaker: It has been properly moved.

Would any other Members like to speak to this?

I recognise the Honourable Member, Dr. Grant Gibbons.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Acting Speaker.

I think I had referred to this in the original debate, but because it is after lunch, I think it is worth emphasising again.

The reduction in fees on land license fees for condominiums and those that are associated with tourist accommodation and the current slate of amendments I think is an important one and I would just like to point out that it was one of the recommendations coming out of the Bermuda First Report that lowering the land license fees, particularly on fractionals, given the competition in other areas and the fact that there are quite a few fractionals in the bank out there right now that have not been sold, is probably a very useful move, particularly in the current economic climate and I think may go some way to helping some of these resorts which are suffering right now partially as a consequence of the Government's tourism policy but are suffering in terms of—

[Inaudible interjections]

Dr. the Hon. E. Grant Gibbons: Just checking to see if you were awake!

So, I think this is actually a move in the right direction.

One of the things that I have not heard so far, Mr. Acting Speaker, is what the Government's assessment is on the license fees they are likely to get as a consequence of this. Have they made any assessment as to whether this reduction in fees is going to involve more units being sold? Obviously, it is going to make no contribution if the election is made to place the fractional or the condo in the hotel inventory. But it will obviously yield 6.5 per cent if the election of this particular hotel residence or tourist accommodation is for use on a personal basis or company basis.

The question I have really is whether any assessment has been done. I mentioned earlier that the Government revenue that is coming from land licence fees, not just in this area but in condominiums and sale of homes to non-Bermudians, has come down quite a bit over the last couple of years and I am curious as to the whether the $11 million that is budgeted this year would include this, whether the Minister feels that because the fees have been reduced they will, therefore, be able to sell more of them and then recoup some of the loss of these. I am looking for some sort of an economic projection as to what this might do to Government's revenue.

But, as I said, I think from the perspective of the general policy here to reduce these landholding charges for fractionals and for these hotel residences, I think that is a good thing and will probably help some of the tourism businesses here. In fact, I think this is probably the most important part of the overall set of amendments and legislation we are seeing today.

Thank you, Mr. Speaker.

The Acting Speaker: Would any other Members like to speak to these regulations?

I recognise the Honourable Member, Mr. Trevor Moniz.

Mr. Moniz, you have the floor.

Hon. Trevor G. Moniz: Thank you, Mr. Acting Speaker.

To me, this measure almost looks like sort of a panic measure because it is such a broad and fundamental change from previous government policy. And the effect of it is going to be, as the Government has said, to encourage exempt companies to buy units in hotel developments and create these gated communities.

The situation is then, if they do that, the land charges they pay are going to be zero if the unit is from hotel inventory and only 6.5 [per cent] if they are kept for private use, as opposed to 18 per cent, which non-Bermudians generally would pay if they bought out of private stock as opposed to hotel stock.

This, surely, will have a general effect on the Bermuda real estate market of depressing that portion of the market even further, which is not within hotel developments. I think this is going to have an effect that is going to punish the average Bermudian ultimately, even if . . . because it is going to make those units . . . it is designed to make units in hotel developments more attractive so people . . . If it succeeds, which I don't know if it will, but if it succeeds, it will encourage exempt companies to purchase hotel residences or condominiums outright within hotel developments rather than allowing their staff to buy or to rent in the private sector. And it is going to have a negative effect on the market outside of hotel developments, if it is successful. And, in addition to that, it will have a negative effect, as my honourable colleague, Dr. Gibbons, said, on Government's revenues.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Would any other Members like to speak to these regulations?

No other Members?

Minister?

Hon. Walter H. Roban: Thank you, Mr. Acting Speaker.

There appears to be some difference of opinion on the other side on the merits of this particular landholding charge regulation.

We anticipated that this deduction, as the Honourable and Learned Member, Dr. Gibbons, said, that there are certain constituencies that have been calling for some relief in this area, because we felt that it could provide some economic opportunities.

Perhaps those suggestions have influenced the efforts by the Minister to do this and we are thankful that the Honourable Member sees this as a positive thing.

Again, I made this point, I believe, during the debate on the principal legislation in that the concern about the rental market that might be affected by some of the change we are making here, is a market that is out of reach of most average Bermudians, if I can refer to the description of the Honourable and Learned Member.

The 10,000 or five-plus-figure rent is not what the average Bermudian is providing or taking advantage of in Bermuda. So, the persons who pay those rents are clearly people of executive or certainly considerable salary level and so I do not see how the average Bermudian who would, if you were to look at who they are in the rental market, are not in that particular category.

But we believe this will help. This is a way to ensure that 1) not only from a local standpoint those properties that are getting into this market can effectively market their properties in a way that will hopefully be of economic advantage to them and potentially not only sell the disposition but also be able to benefit from them being leased back to them as a part of their own tourism product. But also, as being a part of the international hospitality community, as I outlined earlier, there are a number of jurisdictions that we in our landholding charges are double and triple higher.

So, despite whatever reservations are being expressed by the Honourable and Learned Members on the other side, this will put us in a better competitive position internationally as it relates to our landholding charges which are standard in this particular market, but reducing them by half of what they are now is going to put us in a very good place from a standpoint of competition in the hotel and visitor market, which is the only area that this particular legislation is focused on enhancing Bermuda's involvement with.

Thank you.

The Acting Speaker: So, do you want to move that, Minister?

Hon. Walter H. Roban: Thank you.

With that I move that the draft regulations be approved and a message be sent to His Excellency the Governor.

The Acting Speaker: Any objections?

All those in favour, please say Aye. All opposed, Nay.

Ayes and Nays.

The Acting Speaker: The Ayes have it.

[Motion carried: Draft Regulations: Bermuda Immigration and Protection (Land-Holding Charges) Amendment Regulations, 2010, approved.]

The Acting Speaker: Order number 6, Consideration of draft Regulations entitled: The Bermuda Immigration and Protection (Rental and Use) Amendment Regulations 2010.

Minister.

BERMUDA IMMIGRATION AND PROTECTION (RENTAL AND USE) AMENDMENT REGULATIONS 2010

Hon. Walter H. Roban: Thank you, Mr. Acting Speaker.

I wish to move that consideration be given to draft regulations proposed to be made by the Minister responsible for Labour Immigration and Housing under provisions of section 102C (1)(c) of The Bermuda Immigration and Protection Act, 1956.

The Acting Speaker: Would any Members like to speak to The Bermuda Immigration and Protection (Rental and Use) Amendment Regulations, 2010?

No Members would like to speak to it?

Minister?

Hon. Walter H. Roban: Thank you, Mr. Acting Speaker.

With that I move that the draft regulations be approved and a message be sent to His Excellency the Governor.

The Acting Speaker: Any objections?

An Hon. Member: No.

The Acting Speaker: No objections?

[Motion carried: Draft regulations: Bermuda Immigration and Protection (Rental and Use) Amendment Regulations, 2010, approved.]

SECOND READING

COMPANIES AMENDMENT (NO.2) ACT 2010

The Acting Speaker: We now move to the second reading of the Companies Amendment (No.2) Act, 2010.

Minister of Finance, the Honourable Member, Deputy Premier, Paula Cox.

Hon. Paula A. Cox: Thank you, Mr. Acting Speaker.

I move that the Bill entitled the Companies Amendment (No.2) Act, 2010, be now read the second time and committed.

Mr. Acting Speaker, we had a fair amount of debate on four Bills that preceded this, and that really set the context. I think that while the issues and the debate has been interesting and fulsome, I think just to reiterate, the issue is that there is no single magic bullet to revitalise our tourism product or even to insulate, necessarily our international business sector from feeling the effects of it.

However, one of the aspects that we saw this Bill providing and the compendium of legislation that came before, was a means of sharing not just a sort of welcoming tune to international business and supportive of the hotel sector, but it was also taking note that as we position ourselves to recover that even though right now companies are being very careful and frugal in their spending, it is important that this had been an issue that many had expressed an interest in. Then we had the recession come along and some of those plans stalled. But, at the same time, it was something that they saw as useful.

So, Mr. Speaker, today what we have before us in terms of this Bill are amendments to the Companies Act which are required to basically make some of the changes that have just been passed by the Honourable Minister Roban. And this is to enable companies to acquire and hold tourist accommodations and hotel residences in a tourism development.

Now, certainly as I have indicated, these amendments complement the amendments to the Bermuda Immigration and Protection Act, and will certainly help to provide, I suppose, an enabling framework to facilitate investment and hotel development by these companies in Bermuda.

A query was raised in one of the other discussions about local and exempted companies. I hope that I can assist in terms of providing some of the background in this Bill.

Certainly, Mr. Acting Speaker, we recognise that the tourism market is certainly a highly competitive one and it is certainly changing. There are a number of different types of products which are now a part of the hotel development project that may be acquired as part of a tourism development, including residential suites.

And, certainly, Mr. Acting Speaker, hotels which include a residential component are not a new phenomenon. The concept was introduced in the US in the 1990s and it is now certainly a key component of most hotel developments. Bermuda certainly is not another world and it has to also be open to these innovations. And we certainly used to be one of the prime movers in defining leisure tourism and we had better continue to innovate.

In order to be successful hotel developers rely on a wide range of potential investors, including companies who may invest not only in the development but also in the products being offered. Presently, acquisition of land by a company has been restricted. And the Immigration and Protection Act deals with landholding in Bermuda and it has limited residential landholding to individuals.

Now, that Act does carve out landholding by corporations with the consent by the Minister of Finance under the Companies Act, 1981, or under any other Act. So, what you have is a duality of functions as in effect, both Ministers have jurisdiction to deal with landholdings by companies.

In order for a company to acquire land, the provisions of the Companies Act must be reviewed carefully as local and exempted companies are treated differently.

Now, for local companies there are three circumstances under which companies may acquire land. Firstly, local companies may acquire and hold land with the previous sanction of the Minister bona-fide required for the purpose of the company as long as it is not going to exceed its landholding powers as stipulated in its Memorandum of Association.

Secondly, local companies may take land by entering into a lease not exceeding 50 years, being land that is bona-fide required for the purpose of the business.

And, thirdly, local companies may take land by entering into a lease or a letting agreement for a term not exceeding 21 years in order to provide accommodation or recreational facilities for its officers and employees, but only with the Minister's sanction.

Now that is dealing with local companies and those are the three criteria.

For exempted companies, the opportunity for holding land is more restricted. Now, as a general rule, exempted companies—and we say "exempted," but think of it as international companies. That language we are going to have to get rid of because I think it can be confusing. And I think that is a separate issue, but I think it can invoke other issues under the WTO.

But let's think, when we say exempted, we are thinking of international business. As a general rule, they may not acquire land for an extended period of time; however, these companies may acquire or hold land under the following circumstances:

They may take land for its business by way of a lease or tenancy agreement for a term not exceeding 50 years. These companies may take land by entering into a lease or letting agreement for a term not exceeding 21 years in order to provide accommodation or recreational facilities for its officers and employees, but only with the Minister's sanction.

So, Mr. Acting Speaker, it is possible for a company to acquire land by way of a private act. And in such cases, these provisions are carefully scrutinised by the Joint Select Committee for Private Acts under the chairmanship of the Deputy Speaker before

the private act is presented to the legislature. So the acquisition of land by companies has been pretty tightly controlled.

Now, the proposal that we now have in this Bill to enhance development of hotels in Bermuda, will involve permitting companies to not only invest in the hotels, but to acquire an interest in tourism-related properties that are residential in nature, including hotels, condos, fractionals, hotel suites, and residences.

All these units must be situated in an area designated for tourism. As well, the use of these properties will be subject to the terms and conditions set down by the hotel developer. Now, as an owner of a unit, you may be limited to use of the unit for a certain defined period of time and you are required to put your unit back into the hotel inventory. Other units may not have any restrictions and the owner may reside in the unit year-round.

Certainly, we are at a crossroads, I think, Mr. Acting Speaker, and we have to consider how the proposal to support tourism hotel development will impact on our policies pertaining to holding residential land by companies and create some win/win opportunities for all. So there are some benefits. Hotel developers will now have access to a wider pool of capital. Local companies will now be able to broaden their investment in the tourism sector beyond the development stage. International companies will now be able to seek to control their housing costs, which should help to enhance Bermuda's attractiveness as a domicile. And employment for Bermudians will be secured as new developments are brought on.

And just as an aside, I will not revisit past debates, but in terms of the model, one of the issues raised by the Honourable Member who speaks for education on the other side, in talking about the Bermuda First Report . . . when you attend the hotel development committees, what you see are a number of proposals which are very interesting. And the analysis has been done and been looked at also by the relevant ministries. And, certainly, for many, going forward, in order to make their development initiative or their development project financial and successful and commercially viable, looking at Bermuda's tariff structure, we are seen to being less competitive than other competing jurisdictions.

And, while we do not have a full set of economic data, what you have got is the fact that right now you are in a position where you are not seeing, you are seeing pretty flat. You are not seeing anything happening. And the potential and the expectation is that by changing the model and making our prices and tariff structure more competitive that you will increase, and the potential benefit and revenue should see a correlative increase. We do not, obviously, have hard data at present. But, certainly, that is the thinking and the ethos for trying to make our product a little more marketable and also developer friendly.

Mr. Acting Speaker, clearly we also see the need that we have to continue to invest in tourism and make sure that it seeks to regain its lustre. One of the key-deciding factors has been that the land which may be acquired will only be land that has been designated as development of tourism facilities. And this land is not presently zoned as residential, but for commercial development. And from that perspective, the land is now designated for specific use to support the development of a key sector of the economy.

Now, in order to move forward with the initiative, Mr. Acting Speaker, it is necessary to examine closely the provisions of the Companies Act, read together with the Bermuda Immigration and Protection Act. Now both ministries have jurisdiction in this area, but under the Companies Act, the Minister of Finance must give a sanction to acquire land, bona-fide required for the purpose of the company.

Now, the Minister of Immigration issues a license to acquire residential land by persons who are restricted persons, which includes your international companies, but not local companies. As local companies are not defined as a restricted person and do not require a licence, it is proposed that the acquisition of residential property in tourism developments by local companies be subject only to the sanction of the Minister of Finance issued under the Companies Act.

Now, local companies will benefit from many of the rights and privileges of Bermudian individuals with regard to purchase and use of these types of products.

As an exempted company is a restricted person and requires a licence from the Minister of Immigration, it is proposed that there should be only one consent to acquire the land. Therefore, an exempted company may apply to the Minister of Immigration for a licence to acquire and hold an interest in a tourism accommodation or hotel residence, and an express sanction of the Minister of Finance will not be required.

It is like you have some controls and checks, but you do not want to make it so unduly bureaucratic where people or companies have to jump through two hoops at their offices, because you still have the sort of overriding control in terms of the issuance of the licence through the Minister of Immigration. And this, again, is because you are dealing with Immigration; it is basically talking about foreign. So you are talking about restricted person, which, in other words, is not a locally company, but it is an international company.

So, Mr. Acting Speaker, in effect, there will be two regimens for acquiring tourist accommodation and hotel residences by companies. For local companies, the present regime under the Companies Act will be continued. And companies will be required to obtain the Minister's express sanction to acquire an interest in the tourism accommodations or hotel residences. If necessary, the companies will be required to amend their landholding provisions in their incorporation

documents. And a description of the land being acquired will be attached to the company's Memorandum of Association, which is registered at the Registrar of Companies and is certainly viewed by the public.

For exempted companies, a licence will be issued by the Minister with responsibility for immigration and the licence will be registered in the registry maintained by that Ministry. Now, since Immigration deals basically with the borders in terms of . . . and foreign persons, restricted persons, it seems sensible that you have that carve-out in that way.

Now with this approach, the particular sections of the Companies Act that are being amended are sections 120 and 129. The landholding sections for local companies are set out in section 120. Under section 120, the Minister with responsibility for finance has wide discretion to give sanctions for acquiring land by companies, provided the Minister is satisfied that the land is bona-fide required for the purpose of the company.

The Minister has exercised caution when applying this section of the Companies Act. And the meaning of bona-fide purpose of the company may include acquiring residential property for accommodation by officers or employees, but it isn't clear if this sanction would include the acquisition of residential properties for investment or other purposes.

So, out of an abundance of caution, the Companies Act is to be amended to clearly state a local company may acquire land designated as tourism accommodation or hotel residence subject the following conditions: (a) the Minister's sanction will be required in each case; (b) the company may take a lease or enter into a letting agreement for a term not exceeding 131 years, or such longer period as may be set out under a hotel concession order.

And, in particular, concession orders do enable developers to offer an option to renew a lease for a similar term, and the Minister may include consent to the company to renew under an option.

And (c) the company may only acquire tourism accommodations or hotel residences that are designated as properties which companies may procure by regulations made under the Bermuda Immigration and Protection Act; (d) the company may only acquire an amount of land that does not exceed its landholding provisions under its Memorandum of Association and attach the description of the tourism property to the Memorandum.

And to meet this requirement, the company may have to amend its Memorandum of Association and increase its landholding limits at the same time. And this will certainly be by public notice.

(e) The company must have a physical presence in Bermuda. It is not intended that this should be a sort of tax-evasion stratagem. And it is not intended that companies may be simply a landholding or investment company whose only business is to hold an investment in land. Rather, the company must have a physical presence in Bermuda, with staff and persons employed and working on the Island; or, the company must be part of a group that has a working presence in Bermuda with staff employed.

(f) Though not expressly stated in the amendment, the Ministry (because we have already got it in a prior amendment that we have already passed here this afternoon) will limit the number of properties to four units which mirrors the restriction imposed on restricted persons under the Bermuda Immigration and Protection Act.

Now with regard to exempted companies, section 129 is being amended to enable an exempted company which has obtained the licence from the Minister with responsibility for immigration, to acquire a lease or letting agreement for tourist accommodation or hotel residences for a term not exceeding 131 years, or such longer period as provided for under a hotel concession, including permission to take an option to renew a lease. And the company must also meet the requirement that it has physical presence in Bermuda, or one of its affiliates, or be part of a group that has a presence in Bermuda.

Certainly, Mr. Acting Speaker, the Ministry of Finance will work closely with the Ministry with responsibility for immigration when dealing with these types of landholding applications. And as I have indicated, both Ministers have jurisdiction in this area.

So, in this regard, the Minister with responsibility for immigration, in the exercise of powers under the Bermuda Immigration and Protection Act, may introduce regulations dealing with the use of tourism accommodations and hotel residences which may apply to local companies as well as exempted companies.

And, certainly, Mr. Acting Speaker, I will not go into the details, since it is extraneous to the Bill, about some of the challenging times and some of the issues that we are dealing with on the international front. But it was thought that at this time, you certainly cannot be . . . I do not think you can be complacent at any time, but I think this is seen as a way to sort of augment some of our existing offerings and do what we can to enhance what we have. Certainly the proposal to support hotel development by allowing companies to acquire an interest in tourism accommodation should help to better position Bermuda. And it certainly should also help to create some greater opportunities.

With those comments, Mr. Acting Speaker, I certainly welcome some further comments from Members of the House.

The Acting Speaker: Thank you, Minister.

Would any other Members like to speak to the Companies Amendment (No. 2) Act, 2010?

The Chair recognises the Honourable Member, Dr. Grant Gibbons.

Mr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Acting Speaker.

Let me start by saying that, as I see it, this is obviously an appreciable change in policy, particularly with respect to ownership of property or landholding of property by exempt companies.

One of the questions I have here is: sort of is this a half-way step on the way to further easing of landholding by exempt companies? Or is this simply, in the Honourable Member's vision, something that is occurring at this particular place and time because there is a willingness to try and support some of the hotel developments here, which are obviously under considerable stress?

And I say that, Mr. Acting Speaker, because Bermuda has gone a very different way than some of the other, I will say, islands to the south of us. Cayman, for example, a long time ago gave up its birthright because it allowed international business and others, non-Caymanians, much more leeway in terms of purchasing property there. Cayman has a lot more land than we do. It is about 100 square miles, I think, as opposed to our 21. But, nevertheless, I think, there are certainly, in retrospect, some reservations there.

When I say that this is a change in policy . . . I think, when you move in a direction like this, you normally want to have a very clear sense of where the Government is going here. And I sort of get the sense that it seemed to be a good idea at this time because, I think, as the Honourable Member said, it might provide, shall we say, a more welcoming sense to exempt companies. Fair enough.

On that particular issue, I have not canvassed a lot of exempt companies, but I did go back to both ABIR and ABIC, and it hardly seemed to be on their radar screens. So, I am curious as to whether, shall we say the pressure, may not be too strong, but whether the ask here is coming from a couple of exempt companies that have sort of lobbied the Minister, or whether there is a broader perspective here in terms of, what I will call, the "welcome-ness" component of this particular sort of change in policy. Where is the impetus coming, at least from the exempt company's side?

I guess my sense is that, at least listening to the Honourable Member, the impetus seems to be coming much more from the tourism side than it does from the exempt company's side. At least that is the kind of sense I am getting.

I think we still . . . you know, when you open a door like this, as we are, it still gets you to start thinking about hypotheticals. I mean, one of the questions that my honourable colleague, Mr. Moniz, raised a little bit earlier on, was, to what extent is the Minister of Finance, and I will get to the duality here with the Minister of Labour and Home Affairs and Immigration in a second, but to what extent is the Minister of Finance likely to entertain, shall we say, a proposal from XYZ Reinsurance Company, which has four or five different companies underneath (there may be sort of a dozen companies all involved) and all of them, technically, would be allowed to apply for four residences here under this tourist accommodation or hotel residence. To what degree is the Minister likely to entertain that?

I think all of us up in this House, Honourable Members, will know, for example, that there was, and still is, I think, plans for an inn, Hamilton Hotel . . . are we likely to see, for example, the top—golly, we are up to 10 stories somewhere else. So we are likely to see the top five stories of that, become suites of rooms, you still have a hotel underneath it, but suites of rooms for international business?

I am speculating here, Mr. Acting Speaker. But I think these are the kinds of issues that I was rather hoping the Government would bring to the House that they have sort of thought this through—they have a particular idea in mind here, as opposed to simply presenting something which has lots of flexibility and lots of capacity, which we may not completely understand all the ramifications of at this particular point.

I guess I am also curious as to how the Minister of Finance, who may be getting a particular strong lobby from international business for, shall we say, a scenario of that sort, where they want housing for a lot of their senior people . . . and some of these companies may have a couple hundred people, so you may have a fairly sizable number of senior people here. They may be renting accommodation from Bermudian landlords in other parts of the community. To what extent is there going to be sort of established policy fairly quickly as to how much of this is going to be entertained?

Because once you start allowing one company to do something, pretty soon other companies are going to want to say, *Look, fair is fair here. You gave XYZ Reinsurance the capacity to house 20 of their senior people. They have a multitude of companies there. What about me now?*

You know, there is clearly under this the ability to get around the payment of the full licensing fee of 25 per cent on a house that they might buy out there, or the 18 per cent of the normal condominium. So I guess the question I have here is, I have not gotten any sense of what the flexibility here is, or whether the Ministry has thought through policy on this. Because, once you open a door like this, there is a tendency for horses to sort of go through it. I guess that is sort of what I am looking for here, because I am not getting a sense that this thing has been researched very thoroughly.

Maybe anecdotally the ministry has been approach. Maybe anecdotally people have said, *Yes I would like to be able to have a residence for my chief financial officer in a kind of hotel complex, where there*

are all the services, like maid services, food and all the rest of it. That would be really appealing. That is the kind of stuff that goes on in NY, London and other places sometimes when you buy a condominium.

So I guess, really, what I am trying to get a flavour for here—and I am just not getting it, Mr. Acting Speaker—is to what degree has there been a clear analysis of this particular issue?

I am also curious as to what happens when the Minister of Immigration and Labour starts to get cold feet because there are a lot of property going this way, and the Minister of Finance is saying, *Look, we gave it to this exempt company, we have to give it to this one and this one and this one and this one.* Again, fair is fair here. This issue of duality could present some problems.

So, those are some of the issues. But I guess I was really looking for more of a sense from the Honourable Member who speaks for Finance, given the fact that this clearly is a change in policy, you know, is this the extent of it? Or is this simply, shall we say (depending on how you look at it), the slippery slope to allowing exempt companies here much more flexibility in terms of landholding or land ownership. Because I think that is a concern. And given the sensitivity and the limited amount of land here, I think, Mr. Acting Speaker, this kind of an explanation, this kind of analysis is something that the House really should be hearing today; not what I call the qualitative, anecdotal sort of stuff that we are hearing so far.

Mr. Acting Speaker, I have some more questions which I will raise when we get into Committee.

Thank you, sir.

The Acting Speaker: Any other Members like to speak to the motion?

Honourable Member, Mr. Michael Scott.

Hon. Michael J. Scott: Mr. Acting Speaker, I do welcome the opportunity to just make a few brief observations on this composite set of items that we have been dealing with since item 3 of the Order Paper now ending with the Companies Act.

Mr. Speaker, the reality is that we live in a Bermuda that has . . . I certainly recall when I with the Minister of Finance in London, and we were examining the Bermuda picture and beating the drum, in London to the business community, as the influences to drive business back to Bermuda. And we were looking at the whole question of our infrastructure, and we were all to promote our infrastructure as second to none, gold standard. I was able to speak to the infrastructure with reference to telecommunications as being both robust and well, servicing an international business centre, which we are, and a tourism sector, which we are.

What has happen in Bermuda is that we have built up this brilliant infrastructure. We have seen the trend, which the Honourable Member, Dr. Grant Gibbons, has observed. And I don't understand why he strains so much as if he is in breech birth situation over there. He is as aware of this situation in Bermuda as I am, and as all Members on this side of the House are. It is so clear that we have done a good job with creating our infrastructure in the country.

We have developed this trend of the fractionals being connected with the monetising aspect of the hospitality industry. And today we have wonderful infrastructure in terms of housing. And when the Honourable Member, my colleague, Mr. Moniz, speaks against me on justice matters and immigration matters in the House, and talks about the gated community, he too is straining the question through a very tiny sieve. We are not about to enter into gated communities. What we have are items, elements in our community which we are managing innovatively.

Minister Cox has just indicated that the mix (and she listed them) of price, structure, access . . . all of these pieces are being added to a hotel developer, both existing ones and future ones, to give them a better pool of capital to market to people—investors. And this is good.

What you do in any scenario is to try— particularly as Minister Cox, the acting Premier has indicated, with the flat performances during this economic crises that we are in the middle of recovering from—you seek to differentiate your market to make it more investor attractive. And we have wonderful elements of differentiation that we have been discussing since the Minister of Health stood and introduced those items. And now it is being rounded off by the provision that makes it possible for companies to introduce and purchase fractionals and to invest in tourism. Mr. Speaker, it is nothing more or less, other than structuring our existing assets so that we market ourselves more attractively to tourists.

And, Mr. Speaker, it will not be ABIR or ABIC who we should be turning to as the minds of matter. The people who will matter will be the tourists who are converted from being business tourists, as a result of living in these accommodations [with] their families, their uncles, the wives, their children. They will take the story, as all tourists do in these kinds of scenarios, they will take the story about Bermuda back. So we will convert business tourists into hospitality tourists, or bricks and mortar tourists. This is what we are going to have as the people who will tell the story. Not ABIR, specifically, or ABIC, specifically; the people who experience the tourism experience in these units, fractional or tourist accommodations. So, we have a new status.

I recall going over to the Fairmont Hamilton Princess years ago, possibly even before we were in Government. And there was a particular resident there who set up house there, Mr. Speaker. She would come and just reside in the Fairmont Hamilton Princess for weeks on end.

We have created, even in this Act, a new resident. We have the permanent resident. We now have, within the immigration rubric, a hotel resident. This is a great story to market to the world and to the investor market that the tourism focus in Bermuda and the tourism effort in Bermuda has this differential, this element, that makes it possible to market attractively the tourism experience in Bermuda.

So, these are the ways that we are rounding off the Companies Act amendments to make it possible for Hotel Developers to target and market to the world an experience of living here in residences.

Then, of course, when you add to it everything else that we depend on—the international business centre, our great golf courses, our great beaches, our great people—the experience becomes both cumulative and we expand ourselves into a new visitor. As I say, we convert business people into regular tourists.

So, there is with these highly attractive and luxurious units—not gated communities, Honourable Member—gentrification taking place. And you know that we cannot have gentrification taking place in an island of 20 square miles in an area such as a working class area in Somerset, or in Pembroke, or in Warwick, because we certainly do not have that luxury the way it happens in Harlem. So we are having it take place in the condo area and in the factional unit area.
It makes so much sense. And it is normal and predictable that business people will put their heads together and look for ways to utilise excellent space, living space, and maximise it as well, as I hear somebody saying. That is my observation on what these several provisions achieve.

There is good thinking that has gone on in relation to it. We have not been able to construct a perfect picture, which Dr. Gibbons continually asks us to do. As Minister Roban said, the Government is there to facilitate. So, with policy changes that were crafted in a historical context of our Immigration Acts that we have dealt with in this House, which dealt with protection of land, we have been, therefore, careful not to open the floodgates, or open a wide door.

The structuring of these provisions that we are just reaching the conclusion of debating has been in the context of dealing with fronting. So you can be sure that we have been perspicacious in our terms, determined in our drafting and in our policymaking and formulation.

And so I want to commend the Minister of Finance on the Companies amendment provision, as I wish to commend (because I did not stand during the debate with the Minister of Health who speaks for Labour and Immigration matters) that Minister, too, for these pieces of innovative thinking dealing with infrastructure that we have here in a mission critical way in a time that requires us to be mission critical focused.

Thank you.

The Acting Speaker: Would any other Member like to speak to the Companies Amendment (No. 2) Act 2010?

Honourable Member, Trevor Moniz, from Smith's [West] you have the floor.

Hon. Trevor G. Moniz: Thank you, thank you, Mr. Acting Speaker.

I very much admire the optimism of the Minister of Energy, who spook immediately before me. We would like to think that this raft of legislation which has come before us today is going to . . . it is obviously a fundamental shift in Government policy. It is a completely new framework. And unless it results in an influx of companies and an influx of tourists, and it is the great success that the Minister who spoke immediately before me suggested it will be, unless that is the case . . . if it is a zero sum game, if it does not produce this huge lift in the numbers of international companies and tourists, then all we are going to see, if it is taken up, is companies buying units in hotel developments and a shift from people renting in private homes into people living in gated hotel communities. That is what you are going to see.

The effect . . . you know, the Minister of Health says that it does not matter if that happens (Those were not his words; those are my words.), that those are not average people who rent to those people. But, of course, as we all know in this community you have a knock-on effect. So, as you deliberately, or otherwise, devalue the rentable value of units, as the rentable value goes down people with money go up in the units. And you are going to get more and more empty units, more and more people unable to pay their mortgages, more and more people in financial difficulty, if this new framework of legislation does not result in a significant reversal of the decline of new company formation of new international business coming in and also an increase in tourism.

What I have seen and heard indicates to me that we have difficulty with these developments with hotel rooms. Even in cases like Tucker's Point, where they went ahead and eventually built their Hotel. They have there . . . I don't know what it is, a hundred rooms, or whatever it is. I don't know how many units and houses and condominiums they have sold down there, and fractionals, in order to make the hotel exist. And that was from the point of view of the Government and people of Bermuda. The point of it was to have that hotel there. But if the hotel is sitting there and the hotel is empty, then the difficulty is that we do not have the tourists to fill the hotel.

Now, what is going to enable us to fill that hotel, to make Bermuda more attractive as a destination? Well, of course, we all know today that, very unfortunately, the Minister of Tourism is not here to speak to that, because he had better things to do.

What is going to make that hotel down there more attractive? My information is that off-season it

was nearly empty. I sincerely hope now that the hotel is full. But to make it a viable operation it needs a certain percentage of occupancy throughout the year. And they are not getting that.

Is selling these units going to make those hotel rooms cheep? Are we going down market to attract more people? What is going to attract the greater number of tourists in?

I can understand how this will produce a blip in the sense that if it is successful and if exempt companies buy units in these hotel developments there will be an influx of capital into, let us say, the specific development named by the Minister of Health when he spoke—into Tucker's Point, into the Reefs, and into the Belmont Group, the Newstead operation—which will keep, perhaps, the wolf from the door in a sense that they are all deeply in debt and trying to keep their heads above water. And, if this results in them being able to sell units that they cannot otherwise, it is going to be an influx of capital that is going to keep the wolf from the door. But, it cannot be a long term solution.

What I haven't seen today . . . and I have seen a lot of hope and optimism, which I like to see from the Government, that this will spur additional international business to come to Bermuda to make Bermuda more attractive. But what I have not been convinced of, and what I have not heard, is how is this going to result in more tourists coming into top self hotels? Unfortunately, what you see is more and more people promising developments. And the idea of the development is to make money out of selling the condos, and the hotel is a sort of brush-away activity, which is a lost leader at best.

So, that is where I think the thinking on this is lacking. The optimism is there and we will wait to see the proof of the pudding. But this is a great shift in Government policy. And we will see if that risk is worth it at the end of the day.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Would any other Member like to speaker to Companies Amendment (No.2) Act, 2010?

The Chair recognises the Minister, Walter Roban, from Pembroke East.

Minister, you have the floor.

Hon. Walter H. Roban: Thank you, Mr. Acting Speaker, [it is] interesting to hear the comments of Members of the Opposition.

First, of course, as the spokesman for Labour, Home Affairs and Housing, and with the previous debate that we had, I clearly am enthused and in support of these amendments being brought by the Minister of Finance because it certainly helps, it ensures that what has already been passed can happen. It allows a potential market to take advantage of the opportunity that the Labour and Immigration amendments will bring about.

I think that it has to be perhaps reiterated by myself (I thought that my brief made it clear, Mr. Deputy Speaker) that this is not being made for international business, these amendments. They are clearly a potential client of what can be made available through these amendments that we have made and that we seeking to make with the Companies Act as well as the Immigration and Protection Legislation and Regulations. But it is to enhance the tourism product. It is to create options within the tourism product.

International businesses' ultimate access or realisation of whatever opportunities are there will be made by developers and agents for those developers that market to them effectively. This Government is not in the business of running tourism properties on that side; we leave that, as has been the history of this country, to private industry, primarily. And Bermuda has benefited from that policy. There is no need to move from that now.

But, as with legislation in the past, it seems, Mr. Acting Speaker, that there is perhaps some trepidation on the other side about taking bold steps. They have clearly indicated that this is a change in policy. Well, so was the Hotel Concessions Act. It was a change in policy for Bermuda. So [were] some other changes that we have made around the visitor industry and legislation we've brought to facilitate opportunities that can ensure the prosperity and preservation of an industry that has greatly benefited Bermuda.

The job of governance is to, at times, make those bold steps. And if this is seen as a bold step in some ways as to the history of our relationship international companies and that area of business, then Great! But it has been clearly . . . it is a prescribed jump; it is a very narrow move to ensure that opportunities for us to have greater international competitiveness as a jurisdiction in the visitor industry is assured for the long term. But there are a number of things that will ensure that.

This is in no way being proposed as a panacea, a single panacea, for some of the challenges that we have. But we have to be responsive to the environment that we as a . . . presumably, as the Finance Minister said, we have been a player in the luxury tourism market for generations now, and we wish to remain.

If we wish to remain we have to adapt and change our available product to meet what the market is requiring. It is very clear, certainly from some of the information that has been shared with this House, that it is happening in other jurisdictions that we compete with directly. Some, as some Members have indicated, may have taken the wrong road. But you can be assured, Mr. Acting Speaker, that we watch what goes on. We make changes, being mindful of any errors or perhaps changes that were not wise.

With this amendment to the Companies Act and the previous amendments made, we are prescribing something that is going to be good for Bermuda. It

will be good for our tourism product. Certainly, we are creating an opportunity for certain players in our community to take advantage of the interest that might be available to them. But there are others out in the global community that might see this as interesting as well. And certainly, if it assists with the further development of hotels in Hamilton and other parts of the Island, as this Government has a policy on hotel development, we hope that it provides opportunities there as well.

Ultimately, we want to increase our available beds in this country. As I am sure the Tourism Minister will continue to say, and has said, that is our goal—to increase beds so that there are available options that we can begin to see more prosperity in tourism and rise to the challenge of what is a tough economic environment. We look forward to seeing very positive and optimistic results from the changes that we have made here today, and are purposing to make now.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Would any other Members like to speak to the Companies Amendment (No. 2) Act 2010?

I recognise the Honourable Member, Mr. Zane De Silva, from Southampton East Central.

Mr. De Silva, you have the floor.

Hon. Zane J. S. De Silva: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, I would also like to congratulate the Minister of Finance and also the Minister Roban for bringing forward these new initiatives today.

You know, Mr. Acting Speaker, if we did not as a Government try to continue to look at every which way, every crook and nanny we could to try and create initiatives and spark interest in Bermuda, the Opposition will say that we have our heads in the sand and we are not doing anything.

With the creation of airlift to the Island like none before, WestJet, JetBlue, we have a daily flight to Miami, American Airlines . . . with these initiatives, additional to what we propose today, it has to increase our odds of getting more income tourists to our Island, Mr. Acting Speaker.

This should be a time when we should be optimistic. The prince of gloom and doom, the Honourable Member, Bob Richards, is not here today. But his mantel has been taken up by some of his colleagues.

We have had announcements in the last several weeks, the Lantana Development, Grand Atlantic has broken ground. We have Morgan's Point, which is moving swiftly along. Hopefully we will have an announcement about that soon. Park Hyatt we know that they are very close to getting their financing in place. The other side may say, *Oh, we have been hearing that for months.* Yes, we have. Yes. But, do you know what, Mr. Deputy Speaker? We are no different than any other country.

[Inaudible interjections]

Hon. Zane J. S. De Silva: We are all in this business worldwide trying to . . . we are competing for that dollar.

The Opposition says they have been waiting for years. We did not have a new hotel for 35 years while they had the watch while they controlled the Government. Thirty-five years!

Well, we have had a few, Mr. Acting Speaker.

[Inaudible interjection]

Hon. Zane J. S. De Silva: And they have to share this view, they have to believe that this has got to be good for Bermuda if these things come to fruition.

To get up and preach gloom and doom when we should be preaching positiveness and hopefulness.

[Inaudible interjections]

Hon. Zane J. S. De Silva: Mr. Speaker, I will repeat what I said earlier: When the Opposition is saying that this is going to take revenue from the country, I believe that this is only going to enhance our revenue opportunities.

If we are successful in this initiative, Mr. Acting Speaker, we will be inundated with visitors. And when visitors come to Bermuda they spend money.

And, yes, that is going to be addition to what the Honourable Member opposite said earlier, "Oh, we only have the cruise ship visitors." Let us hope that the cruise ship visitor continue to come to Bermuda, Mr. Acting Speaker, because if not, we will have some serious problems. So they have to stop crying down the fact that we have cruise ship visitors to Bermuda. Our competitors to the south would love to have them.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Minister.

Any other Members like to speak to the motion?

Minister, would you like to reply?

Hon. Paula A. Cox: Thank you Mr. Acting Speaker.

Mr. Acting Speaker, we have had, and have seen, and have heard a meeting of the minds.

You have had the Honourable Member who speaks for Tourism, the Acting Minister of Tourism, the Honourable Member, Mr. Zane De Silva, we have heard the Honourable Member who speaks in this place for the Minister for Immigration, the Honourable Member, Mr. Roban, and you have me.

I think what you see Mr. Speaker, is the fact that there is a recognition and a willingness by this Government to embrace change, and to do things dif-

ferently where they serve the national economic interest.

I think that people should be left in no doubt that there is no intent by this Government to sell the birthright of the people of Bermuda. And that is why you have had the fairly strict position taken by the Honourable Minister who speaks for Immigration.

I think, Mr. Speaker, certainly one could say that there are three types of people: an optimist (I am not), a pessimist (I am not), but I am a pragmatist. And given the remit that I have in respect of the responsibility for the Ministry of Finance, I think clearly what one hears and listens to and is sensitive to is that as you seek to build a better model for Bermuda, and as you seek to enhance Bermuda's attractiveness, both as a premier international business domicile, as well as a tourism destination, you have to be prepared to take some different perspectives and do what you can to enhance the environment in Bermuda.

While there is no magic bullet, and no one should be naïve enough to think that this is going to automatically mean, without more, that you are going to have an endless spate of new products and new business coming in without other auxiliary work.

We certainly believe that this helps to create an enhancing and an enhanced environment, and hopes to also continue to position Bermuda as an innovative jurisdiction.

So with those comments, Mr. Acting Speaker, I am pleased to commend this Bill for consideration of in Committee.

Thank you, Sir.

The Deputy Speaker: Thank you Minister.

Any objections?

We are going into Committee.

Mr. John Barritt, Honourable Member from Devonshire South Central, can you take the Chair?

Thank you.

House in Committee

[Mr. John Barritt, Chairman]

COMMITTEE ON BILL

COMPANIES AMENDMENT (NO. 2) ACT 2010

The Chairman: The House is now in Committee of the whole. We are debating the Companies Amendment (No. 2) Act, 2010.

I now call on the Minister responsible, Minister of Finance, Deputy Premier, the Honourable Paula Cox.

Ms. Cox, you have the floor.

Hon. Paula A. Cox: Thank you Mr. Chairman.

Mr. Chairman, I would like to move the 4 clauses, clauses 1 through 4 of the Companies Amendment (No. 2) Act 2010.

Clause 1, Mr. Chairman, is the short title which is, of course, the Companies Amendment (No, 2) Act 2010.

Clause 2 amends section 120 of the Companies Act. And, firstly, section 120(3) is being amended to clearly state that the landholding provisions under the Bermuda Immigration and Protection Act, 1956, apply to all landholding. And this subsection [(3)] was introduced out of an abundance of caution when the Act was amended to remove the Minister's sanction to acquire land by a trust on the grounds that the provisions of the '56 Act, regarding the holding of land in trust, still apply to the trust company.

This subsection is to be amended to affirm that all the provisions of the Bermuda Immigration and Protection Act, 1956, continue to apply to the holding of land by companies, including companies holding land by way of trust. For example, the Tourism Accommodation Regulations prescribed by the Minister responsible for Immigration covers companies as both the Ministry of Finance and Ministry for Labour, Home Affairs and Housing have shared responsibility.

Secondly, two new subsections are to be added. The new subsection [(5)] confirms that a local company may acquire an interest in land in tourism developments by way of a lease or letting agreement for 131 years or such longer period as may be provided for under a hotel concessions order made under the Hotel Concessions Act, 2000. Hotel concession orders may vary the term of the lease. A developer may be able give, as well as permit, an option to renew a lease. And the Minister's sanction may include these terms in the consent.

The properties which a local company may acquire will be limited to those tourist accommodations and hotel residences that are designated by the Minister responsible for Immigration, by regulation made under the Bermuda Immigration and Protection Act, 1956, as properties companies may acquirer. A local company cannot acquire land if the quantity that it intends to acquire will exceed the limit of its landholding capacity under the memorandum of association. And they will be required to amend the memorandum if necessary.

Finally, the company must have a physical presents in Bermuda. And the new subsection (5) defines physical presents to mean that the company must have staff and management in Bermuda, or have an affiliate that has staff and management in Bermuda, or be part of a group and a member of the group that has a physical presence.

Clause 3 amends section 129 of the Companies Act. And a new paragraph (aa) is inserted after paragraph (a) of subsection (1) to permit an exempted company to acquire or hold property which is designated as tourism accommodation or hotel residence

under regulations made under the Bermuda Immigration and Protection Act, provided that the company meets the following conditions (a) the company has a physical presence in Bermuda; and (b) the Minister of Immigration has given consent by the giving of a licence.

The exempted company may acquire the residential property by way of a lease or tenancy agreement for a term not exceeding 131 years, or such longer period as is provided under a hotel concession order made under the Hotels Concessions Act.

A new subsection is added to section 129 immediately before subsection (1A) describing what constitutes physical presence in Bermuda, similar to the requirements imposed on local companies.

Clause 4 is simply the Commencement clause, and the Bill will come into effect by notice published in the *Gazette* and the Minister of Finance will coordinate with the Minister responsible for Immigration as to the publication of the notices required to bring the various amendments into effect.

Those are the provisions of the four short provision clauses 1 to 4, which is complementary to the legislation we have passed immediately prior under the Immigration and Protection Act.

Thank you, Mr. Chairman.

The Chairman: Thank you, Minister.

The Minister is purposing the 4 clauses of the Bill: The Companies Amendment (No, 2) Act, 2010, in the Committee of the whole House.

Do any other Honourable Members wish to speak to the clauses?

The chair recognises the Member from Paget East, the Honourable Dr. Grant Gibbons.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman.

Mr. Chairman, I would like to focus on clause 2, which, as the Honourable Member said, deals with the ability of local companies to hold land. I am specifically interested in this subsection (5) here, under clause 2, which begins, "Notwithstanding subsection (1)," and talks about essentially that the local company may hold the land with the previous sanction of the Minister, but not otherwise . . . may hold the land "provided that it does not exceed in the whole the limit of the company's land holding powers specified in its memorandum."

I would like to get a little clarification here, because when I read section 120 of the Companies Act there are basically two sections here: the first section, which is 120(1), deals with landholding in the sense of acquiring property, which I understand to be freehold. In other words, a company, through its memorandum of association, is allowed to acquire up to two acres of property for its business purposes. That is essentially a freehold acquisition of that property.

The other part of section 120 talks about a local company being able to take land in Bermuda by way of a lease or letting agreement. In other words, leasing it—leasehold—as apposed to subsection (1) which is freehold. Now, my understanding in terms of these amendments is that we are talking strictly here for both exempt and local companies with leasehold, leasing these hotel residences for this tourist accommodation.

So, I found it a little peculiar, and this is where I would like clarification, as to why this provision is not here in this subsection (5) which does not allow the company to exceed the limit of the company's land holding powers specified in its memorandum. Because my understanding is that that refers to *freehold* under the memorandum of association not *leasehold*, because the 120(1) talks about without prejudice to this leasehold facility. So, I am wondering whether we are mixing apples and oranges here, or whether this is being put in specifically to essentially limit the amount that a company now can lease under the provisions of this hotel accommodation or tourism stuff. And, if that is the case, what this means is that only a company that has a provision in its memorandum of association to hold land would be able to effectively participate in this.

And most companies . . . Sorry, let me rephrase that. There are a lot of companies out there—local companies—that do not have any landholding powers whatsoever. It tends to be sort of older companies that were sort of incorporated a long time ago, before people got fussy about how much land companies could have versus individuals.

So, that is one of the questions: Are we really here, when we limit it to that which is allowed under its land holding powers, are we mixing freehold and leasehold here? And, if so, is there a reason for that?

I have another question that is more just wording. In [clause 2 new] subsection (6) says, "For the purpose of subsection (5) a local company has a physical presence in Bermuda if it operates from Bermuda with staff and management . . ."

The word *from* struck me as a bit odd. Are we not talking about a company operating *in* Bermuda? Maybe there is a specific purpose for the use of the word *from* here which I am missing.

Thank you, Mr. Chairman.

The Chairman: Thank you.

Does any other Honourable Member wish to speak to the clauses?

No?

I call on the Minister responsible, the Minister of Finance and Deputy Premier, the Honourable Paula Cox.

Minister do you wish to reply?

Hon. Paula A. Cox: Of course, Mr. Chairman.

I think the two questions from the Honourable Member . . . the first is that it does require . . . it does apply for lease holding. And if the company does not have privileged landholding provisions in its memorandum of association then, as indicated, it would have to be amended to allow that. But it is not mixing up. Because you have a leasehold it is still making sure that you can come within the provisions of the amount of the leasehold, the amount that we are allowing you to hold under the lease holding provision.

And basically, a leasehold almost, depending on how long it is for, operates in the same way as a freehold. But it is clear that we wanted it to be referring to lease holding. And if there is not, as I have indicated, a provision for a land holding provision in the local company, then it certainly is something that would have to be amended in its memorandum of association, so it includes a land holding power.

With regard to "from Bermuda," that was just really a term of art; it was not . . . you could say that was in terms of drafting. I am not going to be able to justify further as to why *in* as opposed to *from*. Because, remember you do have companies that have permits, companies that operate from Bermuda, even if they may not have a permit to do business from Bermuda, even if they may also have a holding company outside. But that was the thinking.

The Chairman: Thank you, Minister.

The Chair recognises the Member of Paget East, Dr. Gibbons.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman.

I appreciate the Honourable Member's explanation there. But I think it is clear, now, that the Honourable Member is saying that if you lease under this programme you are going to have to come within land holding powers specified in your memorandum.

But I guess I am looking for a little clarification here as well. My sense is that there are a lot of small local businesses out there that have no land holding powers whatsoever in their memorandum, but are still leasing premises all over the place. That may be retail, or it may be a cleaning operation, something of that sort. Really, I guess the point that I am making here is we are now essentially using landholding powers, which would normally apply to freehold only, and extending that now under the Companies Act to leasehold as well.

Is that a fair statement?

The Chairman: I will let the Minister reply.

Dr. the Hon. E. Grant Gibbons: Okay.

The Honourable Member was saying for long lease, I guess. So, in a sense . . . I mean, is there an implication here that 131 years is now getting close to freehold? Is that the implication here?

Thank you.

The Chairman: The Chair recognises the Minister in charge, the Honourable Minister Cox.

Hon. Paula A. Cox: Mr. Chairman, we have included in the acquisition long-term leases under subsection (1), and that is 999 years or other terms, and continued in the new subsection (5) the need to expand land holding. So now any company must include new land holding policies power for long leases if it does not have it. And that really is for long-term leases. And under subsection (1) that means for 999 years or other terms.

So, we have continued that in the new subsection (5) so that if you do not have it then it does not mean that you are forbidden from doing it, but just that you have to amend your memorandum of association in order to make sure that there is that permissive power.

The Chairman: Thank you, Minister.

Do any other Members have any other questions with respect to the clauses of the Companies Amendment (No. 2) Act, 2010?

There being no further questions or comment, Minister?

Hon. Paula A. Cox: Thank you, Mr. Chairman.

I would like now to move the Preamble.

The Chairman: Preamble is moved.

Hon. Paula A. Cox: And I would like to move that the Bill reported to the House.

The Chairman: And the clauses?

Any objections?

No?

[Gavel]

The Chairman: We shall report it The House as being approved without objection and without amendment.

[Motion carried: The Companies Amendment (No. 2) Act, 2010, was considered by a Committee of the whole House, passed without amendment, and will be reported to the House.]

House resumed at 3:45 pm

[Hon. Wayne L. Furbert in the Chair]

REPORT ON BILL

COMPANIES AMENDMENT (NO. 2) ACT 2010

The Acting Speaker: Is there any objection to the Report on the Companies Amendment (No. 2) Act 2010?

No objection?

Agreed to.

I now move that the Bill now pass.

[Gavel]

The Acting Speaker: So the Bill entitled The Companies Amendment (No. 2) Act 2010 has now been passed without amendment.

We now move on to the next order of business which is the Parental Responsibility Act 2010.

Does the Minister responsible wish to now present the Bill?

I now recognise the Honourable Mr. Scott. Minister of . . . what are you representing?

Hon. Michael J. Scott: Energy, Telecommunication, and E-Commerce—

The Acting Speaker: The Minister of Energy, Telecommunication.

Hon. Michael J. Scott: —speaking for justice in this House as the Junior Administer.

Mr. Acting Speaker, I thank you.

Mr. Speaker the face of the accused . . . I beg your pardon.

[Inaudible interjection]

The Acting Speaker: Yes, carry on Mr. Scott. You have a couple of minutes to get organised.

SECOND READING

PARENTAL RESPONSIBILITY ACT 2010

Hon. Michael J. Scott: Mr. Speaker, I move that the Bill entitled the Parental Responsibility Act, 2010, be now read a second time and be committed.

The Acting Speaker: Is there any objection to the Bill entitled Parental Responsibility Act, 2010, being read for the second time?

No objections?

Agreed to.

Carry on.

Hon. Michael J. Scott: Mr. Speaker, the face of the accused in many of the recent incidences of violent crime here in our Island has revealed a disturbing trend—the commission of such crime by young people who in some cases are still in their teens. Furthermore, those who would be no longer classified as young more often than not have a tract record of dysfunctional behaviour going back to their formative years.

The challenge, therefore, that confronts us to address today are the root causes of this appalling trend at a crucial time in Bermuda as relates to the escalation of serious crime.

Mr. Acting Speaker, members of the public have repeatedly, consistently pointed to the abrogation of parental responsibility as one of these root causes.

The Government has responded proactively, and over the past year has undertaken to research the issue of parental responsibility with a view to ascertaining any link to identify a solution which will address this increasing trend in a manner which is constructive and aimed at rehabilitating the family unit, but is also as punitive as is warranted by the occasion.

So those are the opening remarks, Mr. Speaker. And just on the point of the abrogation of parental responsibility . . . as I contemplate the number of attorneys that are in this House, all of us recalling our days when we understood and were seeking to gain an understanding about negligence (and the categories of negligence are never closed—a timeless article in the law), what strikes us as what has happened in our modern societies—Bermuda is not even exempt from it, of course—is that we have seen negligent parenting. And it has resulted in our generation observing or opining that . . . well sometimes there is a temptation to say, *Oh this is just the New Generation.*

But when the stakes are as high as they are across the global community and disturbingly as they are in this community, where young are visiting violence on young, and killing each other, then this is unacceptable.

So the response—indeed, I have no embarrassment in saying the *reaction* of the Government with legislation—is a classic response. And, whilst attorneys of the world may well say, *Knee-jerk reaction; stop reacting and stop making laws. You are burdening us and drowning us in laws,* Governments must react; lawyers must interpret.

Defence bar attorneys are going to interpret. They are going to make arguments. We are going to make arguments—I must declare an interest. That is exactly what we are going to do. We are going to interpret. We are going to make refinements, but Governments must act. Governments must react. And until we suppress these events in our community, as disturbing as they are, then we cannot relent from reacting.

So, it is in this context that we find ourselves with this legislation today being considered by this Honourable House, along with a number of other pieces legislation that have been considered during the course of this session.

Mr. Speaker, the Parental Responsibility Bill of 2010 is the result of a considered and collaborative

approach which is intended to ensure that parents uphold their responsibilities toward their minor children, and that minors are equally held to account when they do not adhere to acceptable standards of social conduct. And so, it is a bifurcated approach, and a focus upon the parent and, certainly, a focus upon the minor. This, in turn, is anticipated to contribute to a host of other systemic measures to stem the current tide of youth delinquency and anti-social behaviour within our midst.

Mr. Acting Speaker, I am sure that we will all agree that the future of our society depends upon our children, as well as our individual and collective success at raising them, to be socially functional, law abiding, upstanding citizens. Unfortunately, today we are witnessing a trend of social dysfunction and lawlessness that is unprecedented in our Island.

Whereas the traditional systemic approach has been to let social forces play themselves out until or unless it is necessary for the criminal law to step in, the prevailing trend toward serious criminal conduct tells us that we can no longer afford the luxury of complacency or "let's wait and see."

Mr. Acting Speaker, most of us here are parents and grandparents, and we have all been parented. Therefore, the implications of the Bill under consideration today touch us all in intimate ways. In this regard, this particular policy initiative posed with the enormous opportunity for good has come the seemingly endless avenue for bad.

Mr. Acting Speaker, when we throw into the mix the range of illicit substances in our society and the vulnerability of children to be influenced and pressured by peers, and the substances—the unfortunate and damaging substances—are even in the food chain, not to mention the psychotropic drugs and excesses of alcohol. Our children are under a great deal of exposed pressure. Pressure from peers, as I have indicated, induced by media very often, and, as the Minister with Responsibility for Broadcasting and Media, I continue to be pained by how we manage the whole question of the impact of the media and the imagery on it of gratuitous violence and disrespect for young women, and old women at that, how we manage these times, the Internet and that free-flow of information. And, again, images on it that clearly we know, all of us as parents and policymakers, are influencing our children and our parents.

But (continuing), these impacts all are contributing to causing our children and many of our adults to make wrong choices. The task of both parenting and growing up looks increasingly daunting. The data further reinforce the troubling challenges. And I take up the data from this point.

From 1965 until 2000, between 27 per cent and 40 per cent of all children born in our Island were born to unmarried parents.

Probation data reveals a six-fold increase in juvenile probationers between 2005 and 2008.

[Inaudible interjection]

Hon. Michael J. Scott: Taking it all over again: From 1965 to 2000 between 27 per cent and 40 per cent of all children born in Bermuda were born to unmarried parents. Or out of wedlock. We use to have that rubric.

Second statistic: Probation data revealed a six-fold increase in juvenile probationers between 2005 and 2008. A six-fold increase!

Twenty three per cent of the 93 juvenile offenders before the Magistrate's Court in 2008 were recidivist, or repeat offenders.

Between 2005 and 2008 an annual average of 90 young people up to 18 years of age where in intake cases of a Child and Family Services annually, of which 35 per cent of them were classified as "out of parental control."

Mr. Acting Speaker, daunting though these challenges may be—and this is probably not the entire picture—this is no time for complacency or complacent parenting. Quite to the contrary. The Parenting Responsibility Bill of 2010 is one of this Government's ways of saying that more than ever before we collectively have to hold parents individually accountable to uphold standards conducive to raising children successfully.

At Part 1 this is achieved directly by provisions for parenting orders to be made by the court to compel parents to uphold their duty of care. So the very concept comes through.

As I prepared and read this brief, it only was then that the concept struck me, as an attorney, that really what we are talking about was negligence. And we are seeing the concept in "duty of care" interposed in the analysis here in the brief. And the categories of negligence never close. And with modern conditions and modern demands, and modern trials, and tribulations facing the modern parent and the modern child, what we see is a need to deal with negligent parents.

It is reinforced at Part 2 of this Bill with vicarious financial liability to responsible parents where failure to uphold that duty of care results in a child damaging property belonging to other people.

Mr. Acting Speaker, we are essentially forced to literally lay down the law to say that at a minimum every parent in Bermuda is mandated to uphold their responsibility to society and to their children in a way so as to protect their children from the kinds of behaviours that invariably lead to serious consequences for those children, most commonly bumping into the criminal justice system, but also to society as a whole.

Mr. Acting Speaker, in the process of developing the policy leading to this Bill, the Ministry of Justice embarked on a wide range of consultations. These included governmental as well as non-governmental organisations, such as, the Child and Adolescent Services, the Court Services, Child and Family Services,

Focused Counselling Services, Turning Point Substance Abuse Programme, the Mirrors Programme, Co-educational Correction Facility, the Department of Public Prosecutions, and the Magistrate's Court.

The objective was to consult with as wide of range of these organisations as was necessary to obtain whatever data and information could be amassed and provided to reveal the true nature of youth delinquency as it relates to troubled young people and their parents in Bermuda.

Mr. Acting Speaker, as to be expected, there were a host of domestic perspectives on the issues. Whereas, there were equally differing views as to what exactly needs to be done, almost everyone conceded the need for measures to address the growing problem of youth delinquency and irresponsible parenting.

This was also conceded by the former United Bermuda Party Government when it tabled the Parental Responsibility Act of 1998. That Bill did not become law due to the change of Governments.

The present Bill shares many of the provisions of the 1998 Bill, but differs in important ways, we submit. Notably our Bill breaks with the unilateral hard line punitive approach to such matters. Whereas, it does not concede the need for deterrent penalty, more emphasis is now placed on the possible option of social rehabilitation.

Accordingly, necessary consultation with the director of Child and Family Services is mandated before making certain orders. Provisions are also made for counselling and for basing judicial decisions on reports about the social circumstances of the parties involved.

Mr. Acting Speaker, when we turned to other societies to draw upon their experiences we find that to one degree or another similar measures have been evoked from Australia, to Canada, to the United States and the UK.

In each of these jurisdictions, there is an acknowledged need to increasingly hold parents to account to ensure that young people remain within acceptable bounds of conduct.

Concurrently, it is also being asserted that as parents we are a great asset to any society when we uphold our role as such. When we do not, we are a liability to not only ourselves as parents, but to our children and others within our society with detrimental consequences and, in some cases, deadly consequences, for all of us.

Mr. Acting Speaker, like these other jurisdictions, by this Bill we are here in Bermuda saying that parents have a duty to exercise care, supervision, protection and control over our children so as to prevent them from dysfunctional behaviour patterns. It is being demanded that a certain level of social conduct should be inculcated within children and, should that level be breached, those who breach them, as well as those responsible, will be held to account.

We are saying, Mr. Acting Speaker, unequivocally, that when you fail to uphold those responsibilities to the detriment of others, something should be done to ensure that you do not continue in this vein. In a very real sense, our children need to be protected from their own misconduct, as well as from the kind of irresponsible parenting that contributes to such misconduct.

Mr. Acting Speaker, when we can all appreciate that young people from time to time make mistakes, we further appreciate that youth is a time of coming of age, where latitude is permitted for that process to unfold. At the same time, we understand that the relatively short period of coming of age, especially between 10- to 18-years of age, is a pivotal time that indicates the trajectory of adult development. It is a time that allows us to gauge the manifestation of great potential or to discern the path of great troubles to come.

And so, Mr. Acting Speaker, it is not a time that we have the relationship miscalculated or mispitched. It is not a time when we allow a chasm to be drawn between the parent and the child, when we have a relationship of fear between the child and the parent; a fear that the child, on a correction function being carried out by a parent, is going to be turned in or reported to authorities. It is not a time for you to be in such a friendly relationship and lacking the respect that is necessary for the child to understand that trajectory necessary for good adulthood.

Cussing in front of the child, or being cussed by the child, or smoking drugs with the child, or drinking with the child—all of these things that we are now so painfully aware take place in too many of our societies, of which this society is not exempt—is not the kind of relationship that we need. And no wonder some parents are today at a loss and say that our children do not have enough to do for them. The chasm between them and that child is so vast that they have lost perspective entirely.

These are the issues, Mr. Acting Speaker, we are facing. These are the issues that the Parental Responsibility Act today, as best it can . . . and, whilst we make no apology for it, we all recognise that this is not the most suitable of vehicles for addressing this problem. But when, as the Attorney General and Minister of Justice grappling with this problem—and I am pleased now to recognise the presence in the House of Madam Attorney General, the Honourable Senator Kim Wilson, and her Permanent Secretary, Mrs. Lightbourne-Simmons, whom I thank for this brief, and on whose behalf I present the brief—when grappling with this problem we (as I indicated in my opening remarks) react as we must to address and suppress this problem, retard it, arrest it, and then we can get back, we hope, to the way that we expect the relationship between the parent and the child to persist so that we have a better society.

This Bill allows us the much needed tool to enhance the former possibility and avert the latter consequence. Hence, its provisions for anti-social behaviour orders, child safety orders, and child curfew schemes, in addition to parenting orders.

At Part 1, the anti-social behaviour order is intended to set standards as to how our young people are to conduct themselves towards others and each other, indeed, whereas child safety orders will allow for necessary early child and family service intervention to supervise parenting.

The child curfew scheme is an extra-judicial measure authorising temporary ministerial prohibition against young people attending known hazardous public venues. No child should be left to his or her own devices to revisit known sites of juvenile mischief without adult supervision until such time as they run afoul of the law. Neither should we have to wait until uncorrected social delinquency develops into criminal juvenile delinquency.

Mr. Acting Speaker, other than taking a "wait and see" approach, the Bill provides the opportunity to address youth misconduct before it further digresses into serious criminal conduct. We know that a child who is harassing, alarming or distressing his neighbour today is more likely to be a child who, if not reined in from this pattern of misconduct by a responsible parent, is likely to violate the laws in more serious ways tomorrow.

Having identified where a parent is in unacceptable breach of responsibility, the Bill then empowers the Court to order parents to do what ought to be done to prevent the child from further descent down this slippery slope.

Mr. Acting Speaker, it is further acknowledged that it is necessary for the Court to have the benefit of objective evaluation of the social circumstances in any given situation before ordering young people and their parents to refrain from certain activities or to undertake certain actions. As such, it shall be mandated that the necessary information is always obtained from the Director of Child and Family Services before such judicial orders are made. This will reinforce aforementioned child safety order provisions to place a wayward child under the supervision of the said Director for him to dispense advice to the child's caretaker and to assist and monitor the way the child is being cared for at home.

Mr. Acting Speaker, one of the issues that comes up from time to time—or, indeed, time and again within the jurisdictions we have examined, as well as here in our own Bermuda among those in the social services sector—is the need to provide necessary counselling in circumstances that warrant it and where it promises to be effective.

The issue underlies the policy objective of not being confined to punitive measures but to steer the parties onto a path that is socially sustainable. Again, this is achieved through Director of Child and Family Services parental supervision via child safety order provisions. Further, direct provisions are also made for counselling or guidance sessions incidental to parenting orders under Part 1 of the Bill.

Mr. Acting Speaker, whereas Part 1 of the Bill deals with addressing youth crime and disorder, Part 2 focuses on civil liability so as to provide a remedy to those who suffer loss, damage, or destruction of property as a consequence of youth delinquency. It is important to emphasise that we are dealing in this instance with the wilful misconduct of a child in circumstances that warrant judicial intervention. What better barometer can we use to spot troublesome youth delinquency and irresponsible parenting than when young people turn to acts of vandalism or other actions of disregard for property belonging to other people?

Furthermore, Mr. Speaker, the intent here is not to penalise those parents whose children carry out such actions in spite of responsible parenting. Therefore, provisions are made for defences against parental liability, such as parents exercising reasonable supervision, and/or making reasonable efforts to prevent or discourage the delinquent actions which resulted in the loss or damage to property.

Mr. Acting Speaker, there is a full appreciation for the fact that in many ways this is uncharted territory for the people of Bermuda. However, it is equally appreciated that there are equally unprecedented occurrences in our societies that demand such measures. I am not quite sure whether it is quite uncharted, I think we have grown up in a Bermuda where the parents of my colleague, the Minister with responsibility for Cultural and Social Rehabilitation—and certainly her parents—could recognise a child that was off the mark and not behaving well.

And the scheme of response was quite clear too. It was perfunctory, it was brutal, it was simple and it was effective. So, I do not think we need to apologise too much about being unable to recognise this behaviour. The difficulty that we face today is having these kinds of parents, hence the legislation. The kinds of parents that I am referring to of days gone by.

Cambridge Institute of Criminology's senior research fellow, Elizabeth Burney, questions whether such measures are indeed effective. (We are referring to these parental responsibility legislations across the jurisdictions where this particular research Fellow is familiar.) Ms. Burney concludes, in part, that whether such measures are indeed effective, they tend to represent an upholding of values rather than a genuine tool of crime prevention.

Mr. Acting Speaker, I am willing to concede the point that while I remain cautiously optimistic about Bermuda's resolve to tackle this problem, at the end of the day it may simply amount to a symbolic stance, but it is one that we are compelled to take in earnest. Ultimately, it is not a condemnation of bad parenting, which is the impetus here; it is a belief in

our ability to do better by our children and a collective demand that as parents, we all do what we are capable of doing for the benefit of our society.

And so, Mr. Speaker, I commend the Bill to the Members of the House.

The Acting Speaker: Thank you very much, Minister Scott.

Does anyone wish to speak to the Bill entitled Parental Responsibility Act, 2010?

I recognise the Honourable Trevor Moniz.

[Laughter]

The Acting Speaker: Mr. Moniz you have the floor.

Hon. Trevor G. Moniz: Thank you, thank you Mr. Acting Speaker. It's still raining here on my desk and—

An Hon. Member: Getting anointed!

Hon. Trevor G. Moniz: —the air conditioning vent is leaking with the humidity today. Keeps me awake.

Yes, Opposition spokesman, yes, and I follow the Minister for Energy who speaks in this place for Justice and acknowledged the presence of the Learned Attorney General in the House today with her Director or Permanent Secretary.

This is an important piece of legislation which we see before us today, and that Member who spoke on that side is quite correct. This is an approach that we favoured in the United Bermuda Party as far back as 1998, and we have also maintained support for this sort of legislation. It was in our platform as recently as the last election in 2007. We were supporting the introduction of anti-social behaviour orders to diminish these sorts of behaviours.

So we support this legislation, we believe the Government has been very slow to come around to it. And I am not saying the Minister or my Opposite Member—it may not be them at all—but the Government as a whole under its leadership has been slow to come to this realisation that we need to have these "get tough" actions to force responsibility onto these young people. In this case we are talking about children between the ages of 10 and 18, and we are also, of course, talking about their parents.

There has been much talk and study of children that are at risk. The Member who spoke on that side spoke to it. It goes back a lot to children born of single parents and, in particular, where you have teenage single mothers. Any number of surveys shows that where you have teenage single mothers, those children are at much greater risk of anti-social behaviour—particularly the male children—when they get to the teenage and rebellious stage; that they are at a great risk of anti-social behaviour.

Unfortunately, here we are sort of dealing with it at the end where there is the "carrot and the stick." This is the stick. But we have to go back on the circle and round it out and deal with it all the way along the line. So, obviously, in Bermuda we had instituted a number of social areas where we deal with these sorts of issues, the Child Development Project and, as the Honourable and Learned Member, Mr. Scott, mentioned, the Child and Family Services Department, as well as, of course, through the education system.

And, certainly, in most schools I think if you were to ask the teachers which children are at risk for anti-social behaviour, they could tell you pretty quickly who those children are and why they are at that risk of committing anti-social behaviour. So I think we need to follow through in those other areas. As I said, the Child Development Project, which is designed to spot at an early intervention stage children who have challenges, whether they be mental challenges, behavioural challenges, whether they be slight or whether they be major, and intervene at an early stage and correct them where possible, ameliorate them where possible, and then you hopefully will not have these problems when you get later on in the education system, and all of those areas connected with the education system.

So, we need to work in all of these areas. And, as I say, you can see pretty early on the children that are presenting a problem or at risk because of their background or because of challenges that they may have for one reason or another.

From this side of the House, I think all Members will say that we need more support. While we believe that we have to have a "get tough" approach in order to stop . . . the Minister talked about saying the stakes are high and we have young persons killing each other, and we do have negligent parents. We have to look at all of the areas. So this is one part of it. This is a very important part of it. And, certainly on this side, we have supported toughening up our stance throughout the justice system, throughout the police service, while maintaining civil rights.

I would encourage the Honourable and Learned Member who spoke on that side . . . I know recently there have been challenges in the news media from some of the defence attorneys worrying about the possible abrogation, diminution of civil rights. But these are tough times, and we will support Government in taking a balanced but tough approach in order to address the evils that society is facing.

We have to address the reality of youth violence, gang violence, gun violence in this community which continues month after month, week after week, and almost day after day in this community. And I think with the raft of legislation which the Minister mentioned . . . we have had firearms legislation, we have had PACE legislation, we have more legislation on the Order Paper today to deal with some justice issues to do with the [Court of] Appeal Amendment Act, et cetera.

So we need to move forward, in our view, on all fronts to address this malaise in our society, and this is one arrow in that quiver to address these problems.

Now, as I said, we have always supported this approach of these anti-social behaviour orders (ASBO's). I think they come out of the United Kingdom. I think they are designed to address youth violence, particularly with respect to football hooligans and all of that sort of behaviour that you see in children or young people (unfortunately, some older people as well, but here we are addressing young people).

Of course, the proof of the pudding with all of these things is in eating. [When] you put in place a framework of legislation like this, it has to be enforced, it has to be administered, and the difficulty here, all too often, is that we have seen that that is where the letdown is. That is where the Government fails to follow through with the support that is necessary. We see it sometimes in the education system. In my view, we see it in Child and Family Services. We have seen the challenges faced by some of our organisations. We have seen it in respect to the treatment for drug offenders, which doesn't get administered properly . . . you get millions and millions of dollars disappearing, it is ineffectively administered.

So, while we support this, we are greatly concerned that it will go the way of some other things. For example, I think under the education system, there is some parental responsibility legislation under the Education Act. I do not know that that works particularly well, we are supposed to have a sexual offenders register, but I think it is a register that no one is on. I do not see . . . and we have in Government here a Labour Government, which is meant to be very sensitive to social concerns. And we think that this Government needs to put more of an emphasis in those areas to support all of these people.

Recently we had the . . . one does not like to consign these things to being called photo-ops, but we had the Premier attending at the Westgate Prison with some of the worst offenders, talking about wasted potential. But I just want to make sure there is a balance, that he spends as much time with the members of the families of each of the victims of those offenders—those people who are no longer with us by reason of having being killed, et cetera; that this Government feels for those people as much as it feels for the perpetrators and whatever challenges they may have.

So, we need joined-up Government here. We need some action across the board to make sure that all of these pieces of the chain of our social fabric—these support mechanisms—work effectively, that they are administered effectively. So while this is a measure that we support, we hope it will be administered effectively, and the Government will support the other areas that we see lagging behind. Child and Family Services, [from] information I have, is severely challenged to be effective and has been for many years. In some cases, you see people who are very demoralised by not being able to deal with the bulk of the work they have, and in some cases the very uncooperative clients they have to deal with. That is part of what this refers to, the children. Of course the children sometimes hear the parents are uncooperative.

We may address this more when we get into Committee, but when we talk about "parent", there is a broad definition here of including the father, mother, step-parent, guardian and custodial parent of a child. Sometimes problems occur with children because they do not see a particular parent enough; on other occasions it is because, as the Honourable and Learned Member pointed out, they see a parent who is a very bad example *too* much. We need to be able to reach out and persuade that person to be more responsible.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you very much, Mr. Moniz.

Does any other Member wish to speak to the Parental Responsibility Act, 2010?

I recognise Minister Butterfield.

Carry on, Minister Butterfield.

Hon. D. Neletha I. Butterfield: Thank you, Mr. Acting Speaker.

The Acting Speaker: The Minister of Social Rehabilitation.

Hon. D. Neletha I. Butterfield: Culture and Social Rehabilitation.

The Acting Speaker: Culture and Social Rehabilitation.

Hon. D. Neletha I. Butterfield: It is a tongue twister, I tell you. I do no like to introduce myself because I get all mixed up myself. So it is okay, Mr. Acting Speaker.

I was wondering how I would get up and speak to the Parental Responsibility Bill, and I focused on the lovely occasion that was held at the Hamilton Princess Hotel this week with the senior citizens. And how wonderful it was, and how we go back in the day, and also how we were, some of us (because some of us are a little older than others.)

When we heard the music and all the fun that they were having . . . they even brought themselves up to the point that they got on the floor and did the Electric Slide. So they are paying attention. And then we wonder about our young people.

But one of the exciting things was when they did the Soca, and they were just carrying on. And then they did Jazz and Calypso. Now whenever it comes to Calypso, my mind goes back to those places that Hubert Smith and others played. And they played a

couple of songs, and I was singing to the top of my voice, and someone said, "How do you know that?"

Well, we lived at a time when our parents were very close, and I knew the "A Train" and "Misty," and not knowing my right hand from my left and, you know, feeling misty. I knew it, because my mother used to put me on her feet and dance around and sing and sing and sing, then she would play it over again and you would go again. So it was a learning experience as well.

Today those kinds of things do not happen unless you pass it on to your grandchildren, who can be very shy when you ask them to get on top of your feet and dance with you, because they do not know those things. And you remember those things, Honourable Member over there, I am sure, with your parents.

And so, when we think of dysfunctional behaviour, we wonder when did it start, and how did it start. And the Minister has covered quite a bit on it. So that is why we have to look back, and look deep at the root causes of what goes on in our society, and why young people commit crimes.

We come here with all kinds of statistics, and I want to go back to when the Member who just took his seat spoke. And we keep hearing that bell ring on singe mothers.

Being the Minister for Social Rehabilitation, I happened to be in Cabinet one day, and coming out for a cool glass of water. Someone said "Don't come out here, somebody is downstairs who wants to see you."

So I said "Well, who is it?"

They said, "A young lady and a baby carriage."

And I said, "That is all right, I know what it is like. Let me go down there and find out what is going on."

And so she says, "I need to feed my child." I said, "Well give me a couple of more hours, this is Tuesday in Cabinet." So, I went in my office to see her. And I asked the question, because I think it is important for us to recognise that when we talk about single mothers . . . let us support them at the same time, because there are some reasons for what is going on here.

And I said, "Well, where is the father? You have *two* children?" I said.

And she said, "Yes ma'am." And I said "Where are the fathers?" (Because there were two.)

She said, "One is up at Westgate, and the other one has gone to the UK to school."

So there was no child support, and she did not have any high school diploma, nothing going for herself at all. So I tried to talk with her, to get her to understand that in order for her to survive (and her children to survive) she needs some survival skills.

So, this is why I like this Parental Responsibility Bill, because then you could put it together and say, "Hey, you have got to be responsible, let us help you." And sometimes, they are not responsible because they do not know themselves. She also said, "I was not treated good, my father did not do this for me."

So there is a whole list of things before we start to talk about some of the things that happen, especially with absenteeism fathers. Some have died, some are incarcerated, and some are addicted to drugs. So it is on both sides, the male and the female.

We really have to . . . I will not say be patient, because I know it is a long list. It is like a circle, you know. It is a circle, it keeps going around and around and around, and this Parental Responsibility Bill will cut the cord of that circle once it is put in place.

I believe parents want to uphold some of their responsibilities, especially when these problems have been identified. Even when you go to primary school and middle school . . . I happened to be at a primary school the other day, and you can notice it. You have to pay attention to things. All the kids were singing in the front, but there was one little boy who was not. And the neck of his collar was kind of dirty, and his shirt was hanging out. So before he went back into the classroom, I called the teacher and I said, "Can I help that little one?"

She says, "Oh, I have a lot of issues with him." And he was only five years old, Mr. Acting Speaker.

So you can understand, see what is going on. People need to look and see. Maybe his parent needed to be held accountable for how he appeared. Even coming to school, maybe it was the only shirt that he had.

And then I believe the Honourable Member talked about . . . I cannot remember. I did not make a note of it. But we need to embrace . . . I believe the words were "we need to put emphasis there." The emphasis is there. And I found that so interesting. Because while at the jam yesterday, one of the constables that works with the Foster Care . . . I said "How are you making out?"

And she says, "Well, the caseload is going down."

I said, "Why?"

She said, "School is out."

So the teachers are reporting while the children are in school. So now in summer camps we need to still do the reporting. So I have to applaud them for doing all the reporting [of] all the things that they see that are going on the system. She even said, "Well you know, I could get some work done now." Because that is how bad it is. Can you imagine . . . I believe the Minister gave out some figures. What was it? The Minister is not here to—

An Hon. Member: I am here.

Hon. D. Neletha I. Butterfield: Oh, you are there. He gave us some figures. I think it was 90, average of up to 18 years. So that is something for us to be concerned about.

Now, I know that this Bill should touch us all. If it does not touch us all then something is not right. It *has* to touch us all. Parents, or we may not have children, but we are godparents, and we see what our godchildren are dealing with. We are all connected. And we cannot just keep pointing our finger this way and that way but we really [have] to point it where we can help each and every one of them, Mr. Speaker.

I know Minister Scott spoke about the technological age. Well, we do it as well—walk around like zombies. And if you are saying to Johnny "Turn of the TV," he does not hear you if he is on his Blackberry, or he is busy. You either have to go right up in his face or take it from him. But the same way we used computers back then as an educational tool, the technological things that our children do today need to be supervised. Shut it down.

I wear another hat as the owner of a computer school. And anything that pops up, you call the people in to say, "Oh no, this is not going to be on here." And that is what you do, because they find all kinds of ways of breaking things. And you know you have no night lamps in your house, but yet when you walk halls at one o'clock in the morning, as parents you see a dim light. That is the light from the Blackberry or something. They just cannot get off. So, those are some of the things we have to keep looking at.

The other thing that disturbs me is that they have all this slang, you know, "whazup" and "u 2", the you is "u" and the two is the number 2. It is all good, but when they start to put it in their writing books, that is when it becomes a problem because they know no difference. So the parents should be responsible for even that.

I know the Minister who just took his seat before me talked about the educational system. And, yes, they may be identified under the Child and Development, but it needs to be carried on more from there. That is why we are so proud of the CMIT Programme, under the former Minister of Social Rehabilitation, it stands for Cross Ministry Initiative Team.

Now, I could speak to it, Mr. Speaker, because I was a caregiver for four years. I was not kind of happy about it; but I thank God for the experience. When I had to report to CMIT, it was to help to improve that young teenager's life as he went on to find him a job—it is a lot of work that people are doing out there. Maybe it is a lot of work that we do not know about. So with this Act, they will be told what to do; summonsed what to do, so it could be better for them.

While I was there the young lady says, "Well you would not believe it. I just went to a house and I had to teach the lady how she should fold her clothes, how she should keep her kitchen clean." So all this work that they are doing, they are helping people. It is a lot of things . . . and you wonder why parents do not take the responsibility. Just like a classroom has to be conducive to learning, there also needs to be a household that is conducive to living. We must continue to teach them the three R's (not the three R's of arithmetic, writing, and so forth) but the three R's of Respect, Responsibility and Righteousness. That is very important, because then they will be able to respect one another.

But I know the Probation Department—and that was the information I wanted to get from the Minister. Ninety young people up to 18 years of age were intake cases of Child and Family Services annually. And if you still [have] them in the programme, you add another 20 more to that each year. The numbers keep increasing. And that is 35 per cent.

You recall when I brought Psycho Ed here, we found out it is just like a drug that is laced with four different items of drug abuse—cocaine, heroin. We found out that the young people have all kinds of psychotic ailments. Not one—not ADD or anything like that—they have about seven to ten.

An Hon. Member: Multiple.

Hon. D. Neletha I. Butterfield: Multiple, the Minister is saying.

Can you just imagine?

What caused all of that in a child?

Some of it is beyond our control because we have to send them overseas for help.

Mr. Speaker, I did speak about the irresponsible parenting. And I believe that it is irresponsible because of some problems and some root causes in their own lives, and they continue to carry on what has happened in the past for them. We have to ask ourselves, "How do we really define this?" Some parents need help. And I know of some parents who seek help to say, "That boy is just going right out of control." And we notice it between the ages of nine right up to senior secondary school, so you can see where it all starts. We must be able to see that something is wrong and add on those parenting skills.

I remember years ago teaching the class of life skills, and eventually the young man said "Gee, now I could help my children." So all those things that we will see . . . and I welcome this Bill. I am glad that the other side is supporting it as well.

I also think the Minister mentioned something about Child and Family Services for the resources for counselling. And that is very, very important. If you look at the Mirrors Programme, Mr. Acting Speaker (and I am sure you have had your CiTV on) . . . with the Mirrors Programme you can see those young men. Those young men are being helped by volunteers—volunteers who act like their parents. But you must listen to their testimonies.

When they talk about the testimonies, I think the first thing they say is, "Well I never had a father in

my life." That is one of the first things that they say. Or, "My father drank a lot." But I think the highest point is not having that comfort of doing things with their fathers. And that is so true today.

And then you have those good ones that do so much with their children—like yourself, Mr. Acting Speaker—keeping you very busy.

So, Mr. Speaker, I just want to make a couple of observations that research does show that conditions within the family are a significant component—very significant—of a child's behaviour affecting a child's actions in adhering to the values of society. As I said about the Mirrors Programme, 94 per cent—that is closer to 100 than it is to 50. But 94 per cent of the youth participating in the Mirrors Programme report having problems with authority. And that authority could also be their parents, because they are in charge as well.

For 94 per cent of them to speak out like that, and then to turn their lives around to help them with that . . . I believe that this Parental Responsibility Act has the focus needed to support the programme that we are doing with the parent/child relationship.

I recall when they said, "You have to go to counselling." And I am saying, "My goodness, I have raised my children and now I have to go to counselling for something else."

It is amazing what children will say while you are in that counselling group, and then you say, "Well what can I do better?" even though you are doing your best. And you say "What can I do better?" And then when these individuals find that they have to go to counselling classes, or to look at parenting skills, I believe that they will accept it if we handle it the right way with them. So there are no concerns there. And I believe that a healthy parent/child relationship, Mr. Speaker, impacts on strengthening the whole family.

I had a visit at a summer camp for a short period. And when I entered some of the children would say, "Oh, we've seen you on TV." And that touched me. And they hugged me. So that even tells me that something is missing. But they saw somebody or some significance and they felt it, Mr. Acting Speaker.

So our children are there, they want to be loved, but they really want the parents to really help them out in the situations that they are doing, because it helps them to make good quality choices and decisions which includes respecting also their parents and authority (like you and I).

You could not go down in West Park Lane and ask those guys (I think you will), "What are you guys doing sitting on the wall?" They will curse you out so bad, and they will probably follow you home later, and you will come out and your tires are flat. It happens.

I remember one time a brand new car had the longest scratch in it. I remember I had said something to somebody, I said, "I bet you they did that." So again, responsibility for damaging property is even in this Bill as well.

I keep talking about the Mirrors Programme because if we look at this Responsibility Act, it focuses on . . . Mirrors Programme focuses on involving parents. Get them to come to some sessions. And do you know that when they come to the sessions they end up being the volunteers. And so if more came, it would be even better.

And I noted that the country is doing so well. You go to graduation, you don't have one or two balloons—you got balloons!

[Laughter]

Hon. D. Neletha I. Butterfield: They are singing celebrations.

I could not believe it. I was trying to hear the speaker but the balloon was making all this noise, "celebration." And on and on and on. Some people were saying, "Get that . . . turn your phone off. See, you are so hooked on technology . . ." But it was a technological balloon making all that noise and they wanted to throw that outside.

So this Act certainly provides . . . we have some teeth this time. It is just like when we fished at Ladies Chamber. Your father was saying, "Let the line out and wait. You hear a nibble, you know what to do." So this certainly provides teeth to influence parental participation and it certainly gives us teeth to help parents.

I think it is all about helping. And that is what has been said here this afternoon. Some say we are soft, and this is a good approach, because then you soften the hearts of others to change their minds on what they are doing. But it is so frightening today, to see so many young people.

And as I look around the city, especially last year during summertime. The Corporation of Hamilton had hired some young people and they said, "Those boys were having a hard time sweeping with the broom." But eventually, they swept. And they swept well, and they did a good job. It is because you know nowadays it is nothing, you hear sweeping brooms in the Caribbean, but today we have vacuum cleaners, or we have someone coming in to clean up the house. So all these things that our children have missed they do not do nowadays. We also have to make parents responsible for giving them some chores.

Now, Mr. Acting Speaker, let me close by saying that I notice the programmes in the Ministry of Social Rehabilitation. And I was glad to go around and find out about it because my last visit was foster parents, and those numbers are going up. I mean, parents are around, but they are just not caring for their children like they should.

Those numbers are going up. So I thank those parents who continue, foster parents who continue to go in those workshops, who continue to say

what they can do to enhance them, and how to help them. They had a tag day and the foster parents came together and are using those funds for worthy causes.

I visited other places, like the Brangman House, and so forth. All of these things are going on, but it is a difficult task because the parents of those children have failed them. We must be able to put this in place so that we can help them not to fail, but to bring them along a very healthy way, so that we can have a better society, a safer society, and God bless us if we can change it with this Parental Responsibility Act because it appears to offer some great potential for Bermuda.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you very much, Minister Butterfield.

Does any other Member wish to speak to the Parental Responsibility Act, 2010?

I recognise the Honourable Mr. Crockwell.

Carry on, Mr. Crockwell.

Mr. Shawn G. Crockwell: Thank you, Mr. Acting Speaker.

Mr. Speaker, we also support the objective of this piece of legislation which attempts to encourage parents to be more involved in the lives of their children, and to hold parents accountable in certain circumstances for the misbehaviour of their children.

We note that in the recent poll I believe it was 70 per cent of the community, or 69 per cent of the community also support the passing of this legislation. It is unfortunate that we are here and that we have the necessity, Mr. Acting Speaker, to actually have to pass such legislation. We always like to be in line with other jurisdictions, but this is one of those areas where it would have been good if we were not catching up with other jurisdictions that found it necessary to pass similar legislation.

But now we are at that stage, probably a bit too late, Mr. Acting Speaker. As the Honourable Minister stated in his brief, similar legislation was before this house in 1998.

An Hon. Member: Yes.

Mr. Shawn G. Crockwell: And one wonders why it took 12 years, Mr. Speaker, before we actually are passing such legislation. Sometimes we take too long, and we allow circumstances to get to such a state where now, we are reacting, and the situation is out of control.

But we hope that these measures will go some way, Mr. Acting Speaker, to attenuate the rising crime. Certainly, this is a piece of legislation which would catch young people at an early age and provide the necessary preventative measures and programmes which would preclude them from ultimately being involved in the type of gang and violent behaviour that we see so prevalent today.

The Honourable Minister said that this Act may be a symbolic stance. Well, I certainly hope that he is not correct in that prognosis, because we certainly need to see immediate improvement in the conduct of our young people.

Although this is a long-term situation, we have to appreciate that everyone needs to be patient and allow the necessary services and the Bermuda Police Service to be able to do their job, and hopefully in due time we will see the benefits of this type of legislation. Hopefully it will go some way to restoring security to our Island.

Mr. Speaker, we do appreciate that this particularly piece of legislation, although entitled the Parental Responsibility Act, does deal with a variety of orders. The first component deals with anti-social behaviour orders. This will apply to young people between the age of 10 and 18.

I believe in 1998, ironically, a similar type of legislation was passed in the UK. I have seen legislation such as this in the United States, in various States. In fact, they go so far where parents can be held criminally liable for the criminal conduct of their children.

But, there is no question that we need to have young people appreciate—even at the tender age of 10 between 18—that there will be consequences for their behaviour. There is no question about that, Mr. Acting Speaker. And as a result of this particular legislation, if individuals are engaged in anti-social behaviour then they will face going to court and having to have these types of orders imposed on them.

The question then is, Do we have sufficient resources? Do we have the necessary services? Is the Bermuda Police Service equipped to be able to enforce and provide the effective services in order to make this legislation work?

Based on the information that we have, there is concern, Mr. Acting Speaker, in the Social Services, that we do not have the requisite support. Therefore, as the Honourable and Learned Member stated earlier, we would run the risk of having legislation, but yet we are unable to have the necessary effectiveness of that legislation. And that does not benefit anyone, Mr. Acting Speaker.

And so, again, this cannot be a symbolic stance. We have to ensure that the Bermuda Police Service has the manpower in order to be able to keep up with this type of legislation. We must ensure that our social services—like the Department of Child and Family Services, court services and the like—have the necessary social workers, that they have the expertise there. Because even if we start to have the Courts issuing out anti-social behaviour orders, if we do not have the associated programmes that would improve the behaviour of the young people, than we are not going to see the benefit of this particular legislation.

This legislation is important if we can catch these young people at an early stage when they may commit their first anti-social behaviour, get them in the necessary programmes, and then turn their lives around so that they can have productive futures.

If it is a situation where we are just going to be punitive against these young people, then it could have, Mr. Acting Speaker, a worsening effect, which is something that we certainly do not want to see. But, in principle, we certainly hope that it will have the desired effect.

Now, in reference to the Parenting Order, we do know that this has raised some concerns. We certainly support the fact and the notion that parents must take responsibility for their children. I think everyone in these Honourable House supports that concept. We have to be clear that when a child is effectively given an anti-social behaviour order it does not automatically mean that the parent will then have a parenting order. Only in circumstances where that parent has been shown to be delinquent, where that parent has shown that they have not provided the necessary supervision, where it has been shown to the Court that that parent has not provided sufficient role model to the children and to a certain effect that that parent has actually contributed to the poor behaviour of the child, the court would probably impose a parenting order. Hopefully, there will be a high standard there.

I was reading a case in the United States where a 12-year-old was actually involved in gang activity and was the subject of an anti-social behaviour order. When they went to do the investigation at that particular child's home, they discovered photographs in the house of the mother—a 32-year-old mother—who was actually having pictures with members of this particular gang. Then they found a picture of this young boy with a gun.

So it was clear that this particular parent was not providing the proper role model to the child, was not providing the proper supervision for the child; was not providing the proper guidance for the child and, as a result in that jurisdiction the parent was actually incarcerated for a period of time. So parents need to appreciate that they have a responsibility to provide the necessary supervision for their children, and if they do not—and their children then become a menace to our society—that they will have to answer to their lack of supervision. So we support that.

The other side of that particular coin is that when you look at the punishment for a parent who may be the subject of a parenting order, and then they breach the conditions of that order, then that parent can face a potential fine of up to $3,000. And the reality is that these individuals, more than likely, will come from the lower economic spectrum of our community. And I would have liked to have seen, in connection with the Parenting Order, definitive programmes such as a parenting programme being prescribed that they will have to go and take. I know that there are certain programmes that are available on the Island, that we ensure that those individuals that find themselves in these predicaments, when they come out of the system that they will be more productive.

So the question is whether or not a $3,000 fine . . . albeit, there has to be consequences. If we do not have consequences, than what is the point of the legislation? But, if someone finds themselves in this predicament and then has to incur the $3,000 fine, then we wonder, are we making their overall predicament even worse. And so it is…

The Acting Speaker: Honourable Member, could you speak in general terms rather then in specific terms regarding the Bill? Because we are going to go into Committee later on.

Mr. Shawn G. Crockwell: Yes, yes thank you, Mr. Speaker.

I am generally just speaking about the punitive nature in some regard, especially as it pertains to a Parenting Order.

Then also, Mr. Speaker, we know that there is a Child Safety Order. And, again, the underlying objective of this entire legislation and even this area, we support. We support the opportunity especially if a child is depicting at an age under 10-years-old such behaviour where, if he was an adult then that would have been constituted a crime, then we need to have some intervention.

Because this is about the future. I mean, the reality is, Mr. Acting Speaker, we probably have already lost a generation. And so, although right now we have to contend with the generation that we are dealing with that is involved in pervasive violence and gun violence, we have a duty to try and save the next generation. And so, when we see individuals engaged in this type of behaviour, it is incumbent upon us to intervene.

But, the question again is, do we have the infrastructure, do we have the support in place to provide these individuals with the necessary programmes that would enable them to turn their lives around?

We hope, indeed, that that is the case. We certainly support the concept that young people need to be held accountable for their actions; that the community needs to be protected from anti-social behaviour of young people. These days, as the Honourable Minister stated, when you look at those who are the offenders of these violent crimes, they are teenagers, in some cases, Mr. Acting Speaker. So, if young people are now committing adult violent crimes, then young people need to appreciate that there are consequences for that action. But we have to ensure that we are not just penalising these young people, that we have effective and efficacious programmes in place.

Mr. Acting Speaker, we have seen this before. We saw it with the Alternative to Incarceration Initia-

tive. It came in with a lot of fanfare. It was supposed to be the panacea that was going to turn peoples' lives around. What happened was it ultimately became a symbolic stance which did not produce the results that we needed. And now 12 years later, after passing the ATI, we are now here passing even more stringent legislation.

So, it begs the question, Had we had the proper programmes in place 12 years ago, had we had the necessary funding and expertise when we passed the Alternative to Incarceration Initiative, and when we had the Drug Court, and when we had the Bermuda Assessment and Referral Centre . . . when we had all these programmes—which did not have the necessary funding, and did not have the support and have now just gone on the wayside—if we were successful then, then we may not be here today passing this legislation.

Mr. Acting Speaker, there are a few concerns that we found in this particular Act, which I will elucidate on more when we go into Committee, but I would certainly like to flag at this stage. We saw that there is a principle that, especially with the ASBO's (Anti-Social Behaviour Orders), there is an opportunity for the Court to vary and discharge an order made against a child. But in those circumstances, it states that the Court cannot discharge an order without the consent of the responsible officer.

We think that that clearly fetters the discretion of the Court, which is against well-known common law principles, certainly can be considered to be unconstitutional, Mr. Acting Speaker, and that portion of the Bill we would be looking to [have] amended, because at no point should a magistrate or any other judge, if they were inclined as a result of information and evidence before them, to make a particular order . . . because that particular discharge and/or variation, the application can come from either the parent or the responsible officer. And I am not going to go into any more detail.

The Acting Speaker: Again, I wish to—

Mr. Shawn G. Crockwell: Yes, yes I appreciate it.

The Acting Speaker: —caution you again that that can come out when we go into Committee.

Mr. Shawn G. Crockwell: Yes, I just wish to bring it to the Minister's attention so I do not catch him off guard, Mr. Acting Speaker, once we get into Committee.

The Acting Speaker: I am sure the Minister appreciates that.

Mr. Shawn G. Crockwell: Yes, I am grateful, thank you.

And also, Mr. Acting Speaker, again, in general terms, we saw that there is a punitive position as it pertains to young people who breach Anti-Social Behaviour Orders, and I saw that one of the penalties is potential incarceration, and incarceration towards a child. That seems to be a conflict of law, Mr. Acting Speaker, as the Young Offenders Act already prohibits the incarceration of a child under 16-years-old.

So those will be issues that we will raise once we get into Committee, Mr. Acting Speaker. My honourable colleague, I know, Mr. Hunt, will be speaking as well as to some of the programmes that we would like to see in conjunction with this legislation because this legislation in isolation, Mr. Acting Speaker, is not the answer; although it is necessary, in isolation is not the answer. But if we can have this legislation in conjunction with effective programmes, social programmes, holistic programmes, which would aid in turning young peoples lives around, then I think we will be on the right track. Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you very much, the Honourable Mr. Crockwell.

Does any other Member wish to speak to the Parental Responsibility Act 2010?

I now recognise the Honourable Mr. Dale Butler.

Mr. Butler.

Hon. Dale D. Butler: Thank you, Mr. Acting Speaker. Parental Responsibility Act, 2010.

Mr. Acting Speaker, a nine pound baby arrives in your home without a manual—

An Hon. Member: That's a big baby.

Hon. Dale D. Butler: That is a big baby. Without a manual, no refund, you can't return it to sender or distributor. What are you going to do?

In the past, parents used traditional means of raising their children, from Sunday School to grandparents who were more grey-haired than the ones we have today. Well, that's a fact. I often look at the Honourable Member, Mrs. Foggo. It is hard to believe that she is a grandparent. But thank goodness she is a grandparent that has set some standards, some values, shows interest in her grandchildren. With that type of interest and standards, more than likely, as sociologists and people in child-development indicate, those young people do well because they would have a supportive network of somebody who knows how to develop children.

And so—

The Acting Speaker: I am sure that the Honourable Whip appreciates your accolades.

Hon. Dale D. Butler: And so, Mr. Acting Speaker, because these nine pounders arrive without a manual and you can't return them—there is no guarantee on

them that they will even work—we have to keep them. And in keeping that precious baby, we can only salute those numerous parents who try to the best of their ability to bring up our young people.

Mr. Acting Speaker, this has been a difficult task for a Labour Government who initially more or less said, *Not quite right now are we prepared to move in that direction*, who are now saying, *My goodness, things have changed* (as I mentioned) *from the Sunday School era where children went, or to Sabbath School, to grandmothers who had grey hair who were respected*. And herein are the key words, *parent*—and by that, today, we mean probably just one—and *responsibility*.

What we are looking at is how we have changed from that Sunday School era to this current era, our culture, and hence have this problem. We have moved from respect to disrespect; [from] responsibility to irresponsibility; [from] caring to cooling out; from supporting our traditional institutions to non-attendance, not even once or twice. And those institutions played a key part in the development of the morals of young people, reinforced the values of the home, which were further reinforced by the school.

So, we have changed the culture from institutions to non-attendance, from discipline to terror, from caring to abuse, from love to hate, from parents in this society being your uncles and your aunts and your next door neighbours, to the whole society now, apparently, as one's parent, with all of its mixed values. We have moved from friends to enemies.

We have changed our whole equation from a drug-free society to one where now our number one concern is the impact of drugs on families and we have even seen how it is beginning to destroy the United States of America, moving from Mexico all the way to the north, taking in mommies and daddies, and everybody is doing it together sometimes.

We have moved from having neighbourhoods that we valued and prided ourselves on being friendly people, to now not even knowing our next door neighbour.

So what type of a chance does a child coming up today without a manual, who can't be refunded, what type of a chance does he stand in this environment? where now all of technology surrounds him. What can he choose, even at age five now, walking around with BlackBerries. I suggest to you to read some of those comments.

We have moved from, as the Honourable Minister, Neletha Butterfield, in her excellent presentation mentioned, from that reading light that we used to hide underneath our blankets when our parents turned out the light at 7 o'clock at night, or 8 o'clock if you were lucky, to now they have no bedtime, to now you see the BlackBerry light. Change in our culture—all of which leads us now, where? Down a road where we have to have this measure to try and bring in a growing number of parents who are abandoning their responsibility. Tragic!

The most important thing, next to perhaps your mum and your dad, your house, your little bike, and your little red wagon, was your child—the most prized thing that Bermudians had. And you saw it. And it was remarked on by people who came here. They really thought we were a very rich country when we were living in wooden houses with outdoor toilets. Because of what? The way we dressed our children; the way they behaved, because they were so valuable.

But what has happened? Our culture has changed. We have changed that value, the importance that we have placed on children—a life—by abandoning them. Those numbers are growing. We used to be able to say, Mr. Acting Speaker, "Wait 'til your Daddy gets home."

And now the child says, "Great, maybe I'll get to see him."

We have changed the culture. No one sees him. So now, "Thank goodness he's coming home. I haven't seen him."

So why, Mr. Speaker. The most valuable thing that we can possibly have in our lives is that young life of a child to nurture, to care for, to lead, to direct, to give them time, attention, to praise them—not condemn them—to sacrifice going to that bingo or to a nightclub and staying home and supporting him with his homework. Why? Well, somewhere along that path some new, cannot say technology, some new child-rearing programmes came along with freedom. He should be allowed to find his way.

Why, he is! He is finding his way to towards what?

An Hon. Member: West Gate.

Hon. Dale D. Butler: West Gate! Exactly!

We used to try and avoid that. You just had to say, "If the policeman comes." My goodness, the child would behave. Now they couldn't care less. We've changed our culture, Mr. Speaker, which is unfortunate.

Now, with this Bill, some people say that it may provide a golden opportunity for these parents to receive the best of help given the current agencies that we have. What a substitute for a loving mum and a loving dad. Agencies can't do it all! They might try and fix you up a little bit; but nothing can substitute for a loving father and a loving mother who show interest, who show that they care.

But we know what has happened over the past 20-odd years. Daddy is alienated from mummy and only gets an hour or a week. And it used to grieve me, Mr. Acting Speaker, to have to listen to mainly men say how they had one day—one day can't do it. And they were requesting shared parenting. And we passed the Bill that talked about shared parenting, but something happens where they get one day and they

are due to pick up that child at 9:00 in the morning, but he is not ready until 12:00. And at 12:00 he has a tummy ache, so you get him at 4:00 and he is due back at 5:00. You can't parent a child like that. You can't.

Playing all these games with our children. We have a Family Court that is rammed, sitting there alone, listening to those stories and thinking that this child has to go back to that environment—our most prized possession that we used to take so much pride in on the first day of school. Out of nowhere, in poor families, four, five cameras would appear because he was the hero in his family. Now nobody bothers to take a picture of a child going to school. "Big deal, kid, you are on your own." You know?

Because of that sense of values, Mr. Acting Speaker, children were considered to be a prize that we celebrated as compared to now we abandon them by, and you can see it, the distance whenever a parent . . . and this is controversial. The further a child walks behind a parent you can almost estimate the direction in which he is headed.

We used to hold onto our children's hands, and this was before people stole children. We wanted to make sure they weren't stealing that little guy. No way! So what do we do now? He walks further and further. Because I am either going to be texting or figuring out my night time activity, or *Really, he isn't measuring up to what I thought he would be*. Because children are always very cute and easy to get along with at one, sometimes at two, maybe three and then all of a sudden, they need us. They start to talk, they start to communicate and if you are not prepared and you do not have a plan for those children, you may have your hands full.

Well, in that supportive environment, grandmother would step up; auntie would step up, uncles. Now they step out, and not in, because there is very little that they can do with a young person today when you try to mold them and shape them and assist them.

My heart goes out to the numerous parents who are trying to the best of their ability to lead the way. And we can only salute those numerous grandparents, extra aunts, foster parents, who are stepping in to demonstrate what responsible parenting is. We are lucky, on an analytical scale, that we still retain in this country many parents who do understand parenting.

We do, you know. We have a lot of them. We have a lot of them. They make sure they are dressed, make sure that they don't have any booze in their eyes. They understand that. That used to be big in Bermuda too. Before you stepped out of that house, you wanted to see the love those parents have. They wiped it, a lick on their finger and in your eyes—a show of love. Now that kid would slap your hand out of the way, "Don't you be putting any spit on my face." A show of love. That those shoes were polished. All of that was a package that equalled what? In most instances, success that did not lead you to the West Gate; it could lead you towards the front of the line.

But we abandoned those core values, most unfortunate, including even our religious values that children as young as four could be fortified if they went to Mrs. Powells' school.

Now we say, "Yeah, well, why did a child have to learn the longest Psalm in the Bible, must be like 140 verses." Guess what? When that four-year-old learned 140 verses, the entire family came out to celebrate. It was a big thing. Now, you might get one or two people that will come along.

Well, how did that child feel? How do I know how they feel, Mr. Speaker? As a former teacher and principal, there was nothing more that grieved me on the night of graduation than to look out and see people you have never seen before.

[Inaudible interjections]

Hon. Dale D. Butler: Had not seen them.

They are very good, you know, part of the . . . in fact, if you really want to get parents out now, you need a parent-enhancement programme because the parents we are talking about, unfortunately, did not have a good school experience. So it is difficult to get them in the room for PTAs. You have to build their self esteem and so a national parent-enhancement programme would go a long way. Not that expensive.

What you discover is that in good schools the parent has the picture of the child on her desk. That shows. And in instances where the child is experiencing difficulty, they do not have a picture. So the school steps in and makes sure that the parent gets a picture before he goes wrong. The school steps in and calls that parent early before something goes wrong.

You have to build up. "He's doing a good job."

"He is? He is a pain-in-the-neck at home."

"He is doing a good job in school."

You have to build up the parent. In building up the parent, in greeting that parent at the front gate and shaking their hand and saying, "Little Johnny here is coming along nicely."

[Laughter]

Hon. Dale D. Butler: But the parents are like, "He is? But at home he is a terror."

He says, "Yeah, he is coming along."

In fact, we label our children too negatively too early. It makes them irresponsible.

"How he doing?"

"Well, he is pretty bad. He is a tiresome boy."

He will become one. He will become a pain-in-your-neck, if you label him as a pain-in-your-neck. That's what he will become. But if you are there to greet him, and your staff is there to greet him and say, "He is coming along nicely. I'm proud of him. He always has his tie on, his shoes . . ." The little boy

stands there, he feels important as compared to "Yeah, he has been a pain-in-the-neck again today. You know, he didn't bring in his homework today."

No, no, no, no. A parental-enhancement programme would go a long, long way.

I would like to salute single mums, although their numbers and what they are doing, Mr. Acting Speaker, is beginning to decline too. But I was fortunate to have so many very good single parents in high school, in spite of the fact that daddy isn't around, because I already told you they would say, "Wait until daddy gets home." That doesn't happen any more. The kid would be happy if daddy came home now because he never sees him.

In spite of daddy not being there, those single parents will say, "I'm sorry. Yes, you will still work hard and learn those times tables because I believe in responsibility." And they didn't have very many rewards to give children like we do now. We give them a BlackBerry. We give them a trip to Costa Rica! Geeze! Five-, six-, seven-, eight-, ten-years-old on his way to Costa Rica. Come on!

"I'm sorry, we cannot send you to Costa Rica. I'm saving those funds, not for your mobile, I'm saving those funds to send you to college. And I know Bermuda College is free, but we are saving that fund."

In fact, we should be telling our children a lot earlier. That works, when you tell them before it happens. Simple strategy. *Before* you go to nursery, you take them there. *Before* he goes to elementary, you take him and let him see. *Before* he goes to college, you plant those seeds early. That's what our parents did. Told us early on, "You're going to be a good citizen." As compared to, "Ah, your know your daddy is bad."

No, no, no. You didn't hear that type of nonsense; you heard good comments. You heard good comments about people in your neighbourhood. Made you feel good that you were a part of a community that had high standards.

So these parents that may end up on our doorsteps now, who may end up needing the Cross Ministry Programme that the Minister spoke about that is doing very well, where they have had excellent results, now they will get an opportunity to go there. There is a component in the Mirrors Programme for parents too. They will get an opportunity to go there.

The ideal situation would be to have them go into programmes before they need them and I believe Mirrors has a programme there that will sit people down and really talk about, *Okay, so you are concerned about his behaviour. Here are some strategies that you can use. Here are some things*. Maybe, maybe it is as simple as taking him to the Aquarium, and you take him for a walk, you might take him to a beach. You know what I'm talking about? Giving him some time. That will make a difference. Not this so-called "quality time." Which is, *I've got an hour and it's going to be quality. I'll turn off my BlackBerry.* It's just simple time.

I'm going to be out there chasing you around on my pedal bike. I will be out there spraying you with water when you are in your little kiddie pool, I will give you my time. I am not going to go out with the boys and have a drink. We will wash that car together.

Time is what our children are calling out for!

So, to those parents who are doing a fantastic job, continue to. To those parents who need, who are concerned about their children, there is help out there; however, if you decide that you are still going to abandon your *responsibility*—they may start out like a little toy, and too many do, unfortunately, and you can almost, as the Minister indicated, you can identify them very early. And believe me, we do have a lot of teachers who care enough to step forward and to provide them with services. Thank goodness we have in schools now, maybe the counsellors are swamped, but we do have counsellors. We have more teachers who have counselling training. So there are a lot of resources that are available for parents.

So, we would like to encourage all parents to spend more time with their children, to show more interest in their children, to love them and respect them, to be more caring with their children, to show them more kindness. If you put together that formula of a parent or parents, two of them, or foster parent, or uncle or aunt, who do care, who do spend time, and they are responsible, then what is the benefit going to be? Parents, responsibility equals success.

And do you know what, Mr. Acting Speaker? Bermudian parents love to see their children successful. That is why the hall is always packed on sports day, always packed for graduation. Success. So schools now have to go back and re-examine their philosophies. Communities now have to go back and re-examine their philosophy of providing or finding more opportunities to make parents successful.

So in concluding, in the limited 20 minutes that is provided, two important words have to be remembered in this Bill. *Parent* and *responsibility*.

Thank you.

An Hon. Member: Hear, hear!

The Acting Speaker: Thank you, Honourable Member.

The Chair recognises the Honourable Member, Louise Jackson, from Pembroke, South West.

Mrs. Louise A. Jackson: Thank you, Mr. Acting Speaker. I must say that I was so pleased to hear one of my former students—

An Hon. Member: Hear, hear!

Mrs. Louise A. Jackson: —the Honourable Member Dale Butler. Very proud of him. In fact, he took away

most of my speech and other Members have very little left to say. I have to say too that he was—

[Inaudible interjection]

Mrs. Louise A. Jackson: —I have to say that the Honourable Member was one of the best students that I had at the Berkeley Institute, and I am very, very proud of him.

Now it seems to me, listening to everyone else speak, that we seem to be caught somewhere between prevention and punishment for both parents and children. And I am going to start off with prevention first because I think that that is something that we as legislators should really think about. How can we prevent these parents from falling into this awful trap of not being a good parent and having children who act out and have to be dealt with?

I think that this set of laws that we are about to pass, hopefully, is making a really good attempt to involve the parents in the lives of their children.

And I have to say that one of the Honourable Members, Shawn Crockwell, said that there were no programmes involved in this legislation, and that is not correct. There are programmes here. And I am not going to read them out because we will do that later on. But just generally speaking, the parents are required, to go to parenting programmes if their children are in violation of these laws.

The penalties themselves, the punishment part of this, is something that probably we have heard over and over again, and that is (and I am just going to quickly go down through these), increased participation by parents in their children's lives and taking the financial responsibility for paying for children who destroy property.

And that leads me to this: So many of these parents, as others have said, are single parents, many of them are unemployed. The statistics that were given by the Minister when he gave his opening statement were startling. Some of them I had not heard myself. I certainly know some statistics, that 30 per cent of our population is characterised as poor, that is, having an income of, I think, between $30,000 and $36,000 a year.

Most of these unmarried women, many of them have been laid off because of the hotel industry decline. Many of them had positions like chambermaids, cooks, or other things. They have lost those jobs now. They don't have the money. Consequently, we have many children going to school without breakfast. Thankfulness for the Coalition for the Protection of Children who provide breakfasts for so many of our children—

An Hon. Member: And First Church of God.

Mrs. Louise A. Jackson: And First Church of God. Yes, quite a few—

The Acting Speaker: Yes, many of our churches.

Mrs. Louise A. Jackson: —quite a few ministries are involved in this, which is a wonderful thing.

But when I heard the statistic of just that one organisation, the Coalition for the Protection of Children, how many hundreds of breakfasts they give out to children in schools, it was startling to me. And I know that those mothers, and in some cases fathers, if they had the money to feed the children in the morning, they would do it. But they obviously do not. This, again, is a big part of our problem.

How in the world can a teacher teach a child who is sitting there hungry? I have taught now, did teach, for over 50 years. So I have come across almost any kind of parent or child you want to talk about. There are not many that I have not seen with their problems and other things. And I can tell you now, that a parent who cannot financially take care of a child is a desperate person and the child is a desperate child.

It is an awful thing to be hungry. It is an awful thing not to have the clothes clean the way that everybody else's uniform is clean. It is an awful thing not to have the books and toys, or anything that other children have. And this, of course, leads to children acting out. It has been said over and over again here, I certainly do not have to repeat it again, but parents are not there for their children because they are either trying to do two or three little part-time jobs, grandma and grandpa aren't there, they are out working themselves. And it has been said already, that did not used to be the case. There was somebody there to take care of that child. Now they are just running wild. It is out of control, consequently, we need this legislation.

We have 15 per cent of our children living below the poverty line. It is a very, very sad statistic. And most of those mothers are receiving a minimum amount of support, or, some of them, none at all. I heard the Honourable Member, Shawn Crockwell, mention, "What will happen with the court system when, once we get into this and you have parents being hauled into court?"

There are hundreds of cases now waiting to be heard. How are we going to deal with that? I am hoping I will get some answers from the Minister on how that's going to be dealt with. Are we going to have an increase, a special section in the police force—I am sorry, police service, it is called now—to handle child protection?

The other thing these young parents do not have and that is any access to legal advice, or even mediation services. I see that one of our law firms has very kindly offered their services to the seniors for legal advice which is, by the way, very well attended. And they are very grateful for this. But I think about these young mothers, many of them who are financially in poor shape. They cannot get the support that

they are supposed to get from their husbands or partners, fathers. Were do they go? What do they do?

This is something that I think we should think about and that is when I talked about prevention and punishment. I certainly am putting this down for prevention.

Also helping young mothers and fathers, they need help. They need to understand about nutrition, and cooking, and meal planning, and budgeting. All these things. Many of them were not properly parented themselves. They do not understand how to parent. Many of them don't even know how to cook. A lot of them are in situations where they have no idea of how to really, properly raise a child. This kind of thing needs intervention. I do know that—we all know—that there are agencies, a child-development project, but, of course, they cannot reach into every home. I think they do attempt to see every child from the age of two, or at the age of two, to assess them. And I think they are being assessed far better than they were many years ago for speech, and other things, hearing, that they were not assessed for a long time ago.

Again, on the side of prevention . . . so we do not have to get into punishing these parents, they need to have job retraining. This is difficult because they have a child to raise. Many of them do not have really any help in trying to raise that child. But they have to get skills; they have to build skills in order to get positions to be able to financially support themselves and their children. One of the statistics I came up with was, which again was shocking, is that most of these mothers make an average of $250 a week. I mean, how do you live with a child or maybe more than one child, on $250 a week?

Now, the next thing is they go to financial assistance. Well, many of them are not able to get financial assistance for a lot of reasons. One of the biggest reasons is a lot of them do not want to go because they are afraid their children will be taken away from them, or their child will be taken away from them because of their circumstances. So you will have parents trying to exist on approximately $250 a week.

So, naturally, the children end up with emotional and behavioural problems. A lot of them have ADD or ADHD or other problems. We have to ensure that these young mothers and fathers do not abuse or abandon these children. And, again, that is another, I guess, problem that we have here in this country. That social services are overwhelmed with all kinds of problems.

Someone mentioned the sex abuse register. And then we have an elder abuse register. I personally do not understand how these registers can work if nobody knows where they are, who is on them, how to even get to them and if you get to them, are you going to be able to even see who is on them. Hopefully, as a part of this the Minister will be able to tell us just how we can access or how this is done, because, obviously, children who act out, many of them that act out have been abused and some of them abandoned because of bad, poor conditions within the family.

The last thing that I want to talk about is the fact that in some states in the United States parents are actually put in jail. They not only have to pay the costs—

An Hon. Member: We don't want to do that!

[Inaudible interjections]

Mrs. Louise A. Jackson: —they require . . . I am not—We do not want to do that.

An Hon. Member: No.

Mrs. Louise A. Jackson: We do not want to do that.

An Hon. Member: No.

Mrs. Louise A. Jackson: We do not want to do that.

That, to me, is really something that I hope we never even have to consider. I think we are requiring costs from parents and parenting classes, but certainly not ever that. In fact, in some States in the United States, they are requiring that the costs associated with the care, in other words, if children are put into care, whatever that costs, the parents have to pay for it, and the treatment if they have to have treatment.

I am a little concerned that some of the legislation is vague. We support this. I want you to know that now. We do support it, but I think the definition of "parent behaviour" is worded vaguely. It certainly is not as concrete as I would like to see it.

The other part about that is, it makes it very difficult for the ordinary parent to understand what you are talking about. *What do you mean when you say that I'm not taking care of my child properly? Or what do you mean, just because he broke the neighbour's window* . . . you know, is that a part of it? Is that a part of this parent behaviour? Obviously, it can't be too detailed, but I think it is a bit vague.

Now I would like to end by saying that we need to have this care, particularly, and I am talking about parents now because this is legislation dealing with them. It needs to be even across the board for them. In other words, I was approached last Sunday by someone who said to me, "Do you know that we don't have a preschool, a government preschool, in Smith's Parish?"

Now, I don't know. Somebody here might tell me that "No, that isn't true." But if it is true, that they do not, then why don't they, if other parishes have preschools? So, are we supposed to look up in another couple of years and these children in Smith's Parish are acting out and everybody is saying, *Well, I guess it is because they didn't have preschool education?*

[Inaudible interjection]

Mrs. Louise A. Jackson: Yes.

[Inaudible interjection]

Mrs. Louise A. Jackson: It is something that I am just saying . . . I am hoping, that if it is so—

[Inaudible interjections]

Mrs. Louise A. Jackson: —again, if it is so, then I certainly hope that it is something that can be adjusted. Because, again, that is not fair to the children. Because, believe me, in every parish here there are rich people and poor people, so, I mean, it is not a matter of saying, *Well, just because Smith's* . . . there might be perception or something out there.

[Inaudible interjections]

Mrs. Louise A. Jackson: I want to finish, Mr. Acting Speaker, by saying that I hope that we can make a good, fair, honest adjustment for both parents and children. I hope that we can deal with the prevention of this as well as we are dealing with the punishment in this legislation.

Thank you, very much.

The Acting Speaker: Thank you, Mrs. Jackson.

Would any other Members like to speak to the Motion, The Parental Responsibility Act, 2010?

I will recognise the Honourable Member, Mr. Donte Hunt from St. George's South, constituency 4.

Mr. Hunt, you have the floor.

Mr. Donte O. Hunt: Thank you, Mr. Acting Speaker.

Once again I would like to say thank you for . . . or, at least I enjoy and am happy to participate in this debate. This is a topic that is certainly dear to my heart and I say "this" and that's particularly family and everything around family. So I am happy to put my voice on this topic.

Mr. Acting Speaker, I think it has been said, all of us in this House we support this piece of legislation. And how could you not? For myself, Mr. Acting Speaker, I support any measure that tries to 1) curtail violence out there, especially when it is committed by young persons who otherwise should have a bright future ahead of themselves; and 2) This piece of legislation, unfortunately, has to be in place, or at least proposed to be in place, to enact what should come natural for parents, Mr. Acting Speaker, and that is placing our children above all things—above our desires, our desires in our hearts. Sometimes we have to put those on hold to place our children before that. In many cases we have seen that a lot of parents put their addictions above their children, and as a result we can find ourselves where we are today with young people.

The other reason I support this, Mr. Acting Speaker, is . . . and I've said any measure—any measure—that we can put in place that will help support families (and I will get to that later) I certainly support. And I say "support families," and I repeat it again—any measure that supports families. And that's how I looked at this piece of legislation, Mr. Acting Speaker, I said, "How is this piece of legislation supporting families?"

Another lens I looked through as I looked at the piece of legislation is, was there a balanced approach. And hats off. I did see somewhat of a balanced approach as it relates to parental responsibility. That balance being, on one side you've got the punitive weight, so to speak; on the other side, you have the more therapeutic, the part of it that says, *Well, look, you know, you've messed up in parenting. How are we going to support you?* Or a young guy or young girl, *You've messed up. Yes, you are going to get punished. But how are we going to support you? How are we going to ensure that you do not repeat this behaviour?* So hats off. I did see essence of a balanced approach.

The Minister (I think it was the Honourable Member, Mr. Scott), spoke about the Act being "reactive." It is a reactive Act. And he is right, it is a reactive Act. And at times in this House, I have learned, look, you have to do things based on reaction. But I also believe that you can also do things after you react, or while you are reacting, you can do things that have a proactive sense to it. A proactive sense to it. While this is reactive to what is happening today, Mr. Acting Speaker, I think this piece of legislation can have some elements that are more proactive, in essence. And I'll get to that later, Mr. Acting Speaker.

But as I summarise of my beginning of how I want to tackle this thing, look, the bottom line, Mr. Acting Speaker, is that, or the reality is that parenting today is a massive, massive challenge. It is a challenge for the best of us.

And I hear a Member of other side interpolating and saying, "It was a challenge 20 years ago." And I do agree. But in this day and age . . . I have young daughters and have many, many friends. And, obviously, because I have young daughters I have friends who have young kids as well, we talk about the challenges today. And then we compare those with the challenges before, of course, we didn't have children 20 years ago. But in talking with many, many other parents, they look at the challenges that we have today and they say, "Wow, it is difficult. It is a lot different than 20 years ago. We have many more influences on young people's minds than we had 20 years ago. We had more time with our children 20 years ago. It was a lot different 20 years ago."

So, that is the reality that we are faced with. And so with a new, sort of like a new horizon, with

ever-changing elements and challenges coming to the parental stage, then I think we have to do things a little differently. We have to enact Bills like this. So, again, I, and I can say my party, supports this legislation in concept.

Mr. Acting Speaker, as I move on, I actually get into the "meat and potatoes" of this act without necessarily getting too detailed, as we all leave that for the Committee when we go clause by clause. But in the antisocial behaviour order . . . as I looked at that section, I found that it was, in my mind (and this is more of a question than a statement) . . . but I found that it was instead of being a balanced approach it was somewhat out of balance. There seemed to me to be more of a focus on the punitive side as opposed to the more therapeutic side, the side where counselling lives, where any approach to stem the tide of that behaviour lies; an approach that deters that behaviour repeating itself. I didn't see the same level of intensity that I saw (if I can use that term, intensity) or that I think is warranted in this particular Act.

And the reason being, and I can tell you why (you can tell me if I'm getting too detailed and I will desist). The reason is because there is only one sort of sentence that says while the magistrate can or will take suggestions from Family Services, and they may . . . What is it? They may . . . sorry, let me find my place here because I do not want to speak out of sync with what's in here. They can obtain information and they can consider implementing that information. It is not something mandatory that a young person, for instance, gets counselling—which I think should be the case if you commit some sort of crime.

They can consider doing it. And for whatever reason, the magistrate can say, "Well, hey, that's fine. Let's just give them all the punitive bits and pieces and then move forward from there." It didn't have the same gusto that I saw with the punitive side.

Not to mention, Mr. Acting Speaker, that it was vague, it was vague. It speaks to other solutions. I don't know what other solutions are, but maybe I can ask that question during the—

An Hon. Member: Ask it now.

Mr. Donte O. Hunt: —during the Committee side.

"Ask it now." I hear on the other side. Why not?

The question is: What does "other solutions" mean? Does that involve counselling? Does that involve particular types of counselling, advanced-level counselling? Does it also involve things like guided, or purposeful activity? Purposeful activity, the sort of things like, you know, young persons getting involved in activities that, like the Duke of Edinburgh Award, like drama classes. I say drama because studies show that drama helps a lot with sort of wayward or delinquent kids. The reason being because it is sort of goal oriented. You practice, you practice and then you have a goal at the end, you have the play.

But at any rate, what does "other solutions" mean? It is very vague. It needs to be opened up. It needs to be a little bit more detailed in my mind.

I think a couple of Members touched on this point, my next point here. And that is the need for resources, or at least to know that we have enough resources to actually enact, or enforce this particular piece of legislation.

Mr. Acting Speaker, if those "other solutions" that I mentioned, if those are the ones that I think they should be—that's counselling, that's the therapeutic side of things—if they are, in fact, that, do we know how many counsellors and therapists of varying different levels that we need? Do we have enough?

What can happen is that we have a bottleneck. We have a young person who comes to the magistrate, who has done something bad, who needs this counselling. But, guess what? There is a bottleneck because we don't have enough therapists, we don't have enough counsellors. So, before an order is made, this young person would have to wait. I am not sure how long—months? Six months? Could be a year, I don't know. It depends on the bottleneck.

So my question is: Do we have enough resources? It is a loaded question. It is not just, do we have enough? I do not just want a yes. I want an answer to say, *Well, look, based on the statistics of young persons coming to court, we would imagine that such-and-such percentage would have to get counselling. So we have allocated this many counsellors and the associated funds to support that.* That is sort of what I am looking for, and I think the public is looking for that as well.

As I move on, Mr. Acting Speaker, I am always trying to find my spot. So to those listening, if you hear me quiet, I have a PC in front of me. It is a laptop and sometimes I have to scroll down. I have not lost my place. I am just scrolling down looking at my notes here.

Mr. Acting Speaker, the other point that I wanted to bring up in this particular section (for those listening, that is the Anti-social Behaviour Order) is something that has happened in the UK with these anti-social behaviour orders and that is called the "badge of honour." This is a term that has been used by professionals who see a sort of "fall-out" resulting from this particular sort of scheme.

What this badge of honour stands for, or where they get this from, is from young persons who have committed this anti-social behaviour. They get these orders, maybe they cannot go to a certain place, and blah-blah-blah. They get these orders, and guess what? They are quite proud. These young thugs are quite proud to have these orders. They wear them like a badge of honour. They say, *Hey, look, I cannot go over here. That means that I am pretty cool.* It is like street credit.

I mention that, Mr. Acting Speaker, to see if, 1) we realise that just the punitive side can create sort of havoc in the community with those thugs that would wear it as a badge of honour; and 2) to make the emphasis that a more therapeutic approach is required.

Mr. Acting Speaker, as I move on, I am going to shift . . . I think I have said enough as it relates to the Bill. I will save everything else as we go into Committee. But one thing that I wanted to deal with, and the Member that just took her seat, the Honourable Member, Mrs. Jackson, went on a line of prevention. You can call it a proactive measure or solution, source solutions. That is where I actually want to end, Mr. Acting Speaker.

Of course, this is reactive; but I think we have to get to a point where we begin to become proactive, where we say in this House that we are going to implement things that truly, truly support our families.

One of those things, Mr. Acting Speaker, is what I would term "the marriage and family diploma." This is something that has been used in various places, but I have sort of used my own spin to it. It is called "the marriage and family diploma." It is a diploma for those who are married, or those who maybe who are not, can get. And what is attached to this is a contextual incentive. So if you get this particular diploma, as a married couple or as a parent—and may I add that a "marriage and family diploma" in this sense can be for those who are married, those who are not married, those who are parents, those who are single parents. It does not matter. But these courses provide everything that is needed to be a good parent, to have a healthy marriage, because they are linked as a parent.

But the contextual incentive would be out there for those that are in different circumstances. If I need assistance with childcare, then, if I get a diploma, I get assistance with childcare. Maybe there are those who need payroll tax relief, maybe you can get that, if you get this diploma.

So what you are doing here is providing education to couples, marriages, parents, but also providing an incentive to get that. So you have individuals who would go ahead and say, *Well, look, I want what is on the other side of this diploma.* (Which is whatever that incentive is.) *And so I am going to get this diploma.*

Education is out there. And I think we need to be thinking about incentives of this nature. Creative things; things outside of the box. We do not always have to go to the Internet and see what Canada is doing or what the UK is doing. We can blaze our own trail by doing things that are creative.

The other thing that I wanted to speak about, as it relates to being prevention-oriented, is spending more time with family, spending more time with your kids and how we can actually implement that. I have spoken about this in the House a few times and I will get right to the chase. It is known as "parental leave." We have it here in Bermuda; but, I think, it is at its infancy stage. It needs to grow. We need to mature our parental leave policy. And we need to focus more on providing more time for mothers and giving time to fathers.

Right now I do not think we have a paternity leave programme at all. So fathers are left out in the cold. They are not involved at the same level as mothers are. I could be wrong, but from my understanding they are not. So I think that is another thing we can do from a prevention standpoint—improve parental leave.

Mr. Acting Speaker, before I take my seat, in the same line as these prevention measures, we need to increase the provision of youth activities. That has always been the case. That is the case today. And I think we need to continue to move along with increasing or having better provisions for activities for young people. I've said this before—and I will say it again until it happens—a state of the art youth centre. A place—sometimes I want to call it a home centre—where young people can go and get all the help they need. A sort of a fun place. Not only is it fun, it is a place where they can get education assistance, they can get therapeutic or counselling assistance, and things of that nature.

So these are the types of programmes, out of the box things, that I believe we need to do as solutions, as preventative measures, to where we find ourselves today.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Mr. Hunt.

The Chair recognises the Honourable Member, Mr. James, from Warwick—

An Hon. Member: Warwick North Central.

The Acting Speaker:

Warwick North Central.

Mr. James, you have the floor.

Hon. Elvin G. James: Thank you, Mr. Acting Speaker.

For those that are anxious to get up, they would not have to wait too long. I am going to be ever so brief. I am going to make my comments.

But I am delighted with this Bill that is here today, as we talk about parental responsibility. And the focal point of this Bill is obviously on the actions or lack of actions of the parents who have taken on the responsibility of bringing up a child.

You know, Mr. Acting Speaker, there is an old saying that says "behind every successful man there is a good woman," or, "behind every successful woman there is a good man."

Either way. I don't want to upset anybody in here today!

[Inaudible interjections and laughter]

Hon. Elvin G. James: I will also change that to say, when we look at a successful child, there is always good parents behind him, who are pushing him along, and encouraging him to do what they believe is necessary.

This morning we gave accolades to a young man in here, Mr. Kevin Minors. Yes, God gave him some grey matter between his ears; however, this has happened to a lot of young men. But if the parents were not behind this young man to motivate him, to encourage him, then we wouldn't have been here this morning congratulating him. Because, you know, you have always heard this thing, that "a mind is a terrible thing to waste." And this has happened in so many cases, where the parents have not recognised the true qualities of their children and have not given them the attention and guidance that they really need. Somehow the idea of being a parent, to our young people, has become an attractive thing. They know that it is easy to become a parent. And I hear young men all the time say to me *This is my youth . . .* yeah, my *youth*.

And I say, "Whoa." And they are just little fellows themselves. Or, they tell me about the baby's mama. And this seems to be what they are striving for, to be able to say this in public. They really now have an identity. But what we need to stress to these young people is something similar to this Bill today that, once they do take on the parental role, they have a lifelong job. This is not a job that they just go and see them once and awhile, take them an ice cream, a piece of cake; this is a lifelong job where they have to give them attention, give them the love, nurture them.

We have talked in here about the plight of the young black male. And I said then, and I say now, Mr. Speaker, the biggest plight of the young black male—and any young person on this Island—is the lack of parental guidance. We blame it on a lot of other things, lack of activities in society, we blame it on education, we blame it on all types of things. We can put everything in place, but if they do not get that parental guidance—that is the number one key to success for anything—then they are going to go astray.

Being in education I hear teachers all the time saying, "We have these young people that are really giving us problems." And I say to them, "Why don't you contact the parents?"

"We have tried. We have called them several times. We call them and we try to get them down." As one Member says, yes, they change their cell numbers. You just cannot get them down. And many times these are the people that are talking about the plight of our young males—the very ones that cannot be contacted to come and be with their own young people in the schools.

Then we hear about this single parent, and I say to everyone out there, whether they are a married couple or a single parent, they have a responsibility to set standards for their children. It is not difficult. It takes time. Yes, it takes time. It is a hard job; one of the hardest jobs that we face as adults. We take on jobs but one of the most difficult jobs that we take on is that job of parenting. We need to set standards, set goals. But most of all we need to set aside time, quality time, to be with those children—nurture them; let them know that they are loved.

Mr. Speaker, I am certain that this Bill today where we are placing the responsibility for the actions of the child on the parent, I am hoping that it will make an impact. I am hoping that it will make our young people think twice before they step into that role of being a parent. That is the easiest thing to do, as I said. It does not take long to become a parent. I hope that this Bill lets them know that it is not cool to just make a youth, but it is cool when they decide that they are going to take care of them, stand beside them, push them along and make something of their lives.

Thank you, Mr. Speaker.

The Acting Speaker: Thank you, Honourable Member.

The Chair recognises the Honourable Member, Mr. Tucker, from Hamilton South, constituency 7.

Mr. Tucker, you have the floor.

Mr. Darius D. M. Tucker: Thank you, Mr. Acting Speaker.

The Honourable Minister who just took his seat used some of my words I had on my paper, but that is okay.

[Inaudible interjection]

Mr. Darius D. M. Tucker: No, not all my thunder. Just some of the words. Oh yes.

But one thing, Mr. Acting Speaker, is there was a gentleman the other day that made a comment and it was to the effect that he does not want a village to raise his child. I find that to be very disturbing, Mr. Acting Speaker, because of the fact that if the village was actually looking out for that child when the parent was not around, he may have been working, or the child may have been just walking home from school, and acted, then we may not have so many of the social ills that we actually have. They would be minimised.

So, to put that statement out there that you don't want a village to raise your child is a very dangerous way. In other words, you do not want someone to look out for you. And our young people need to be looked out for. Without a doubt they need to be looked out for. They need to be cared for. They need to be loved. They need to be caressed. They need a lot.

And with our young males—and I have a young male—they get to the point once they get around 10 . . . they do not want the mama to kiss them when they get out of the car, or the dad to give

them a hug, and things like that. They do not want it—not in front of other children. So those are the times when you need to get even closer to them. Because even when we are talking about children 10-years-old, I can tell you, we have more children under 10 who are starting to be little terrors and being identified.

Mr. Acting Speaker, I can personally tell you that I was at a school, and a child in P1 at 5-years-old, has an in-school suspension. So you can only image what that young child is experiencing at home. To have an in-school suspension at 5 and what issues he or she may be going through.

That is why it is ever so important that when we have these young people in school, and, like the Honourable Minister said, the parents are changing their cell phone numbers and they cannot contact them . . . then sometimes we have to do a little bit more to find them. Because, I can tell you, those are not the parents that are coming to PTA; they are not the ones that are around at any time.

Their child probably walks home with an older child, or with a cousin, or they just get on a bus and get off here and then they walk home.

So those are the types of things that make this type of legislation essential in this day and age. And it is an unfortunate circumstance, but it is a reality, and a reality that we all must face and live up to.

The figure that the Honourable Member gave out, that 69 per cent of the country was in support of this legislation. That is pretty scary when you consider that 69 per cent of the country was in support, so that is telling me that 69 per cent of this country is taking care of their children and 31 per cent is not, and they do not want anyone to tell them what to do with their child.

You can do a lot of things with numbers. I am just saying that 31 per cent of this country is saying *Don't tell me what to do with my child.* An adult causing all this havoc . . . then this 69 per cent needs to make sure that when this Bill becomes law that we support what happens to make sure that it makes a difference. Because it is very, very important, Mr. Speaker.

The other thing is that when we start talking about children at a young age having interaction with police officers, and if it is the first time that a child may inner counter a police officer, we have to ensure that they get the necessary love and support and with the CAT Team that is out there that CAT Team, with all my reports and my personal dealings with the CAT Teams that are out there, they are doing a wonderful job. But let me make this suggestion here, that with the CAT Team, even if we can look at some retired police officers to even assist them . . . because what the retired police officers can do, when they live within certain areas and constituencies, they can help the CAT Team and give them some background on the family and things of that nature so that it can help to enhance the first-time experience that they may come across with some of these young people. Because at 10 years old, even 8, some of these young people do not have a fear of the police. They do not have a fear of anything.

It is a mindset. It is how they have been raised. So these are some of the things that we need to ensure that when they have interaction with the police that we have the right trained officers dealing with these situations. With the CAT Team, from all reports, they are doing their job. Their hands are full, but they are doing a wonderful job out there.

Mr. Acting Speaker, it was also mentioned about a child being the first and the priority of your life. Unfortunately, some of the parents that are having children today were not the priority of their parents. So they are only reciprocating the behaviour that they have learned. They do what comes natural to them.

This is one of the areas where I know for a fact we can make a difference by encouraging some of our youth groups, some of our trained persons to get involved just a little bit more in some of these areas. And those who have the time to give, offer [your] time and get involved with some of our young people with [your] skills.

The necessary skills may not always have to be in the area of soccer, basketball, netball and on sporting side. There are other areas. If someone has a skill or a trained area, they can get involved even at the primary school level and just volunteer their time some how.

You see a lot of the organisations nowadays have people going into schools and reading to the children. These are the types of things that will make a difference. Because that may be the only time in their life where someone comes to see them, smiles at them, and communicates with them with love and passion. So, if they do not receive it at home, at least they will get it at school.

So, when they go home they start feeling good about school. They will want to go to school, and school will become one of the best parts of their lives. As I always say, I thoroughly enjoyed my school experience. It is something that I always will remember. I made a lot of friends through school. So that is a very key component to this here.

When it comes to parental responsibility, the parent has no choice but to be responsible. And as the Honourable Minister said, he says, "My baby's mama." And then [she says], "Oh that's my baby's daddy." Like . . . that is just craziness. That is just literally crazy, because that shows that there is no respect between the two people that made their child. And so that leads you to wonder, do you make love with the enemy or do you make love with someone that you care for and you love and respect?

There is some fine lines right there, Mr. Acting Speaker, and this is something that must be considered. Because if we are going to be having children in this country, and there is no respect between the two

people being intimate, then we have some serious issues. And these serious issues are now being played out, as we see with our young people. Because, the father is not around, the mother is not around, and, because of the fact that some of these people are younger, the grandmother is even young. She is saying, *Well look, I've got no time to take care of your child*, because she is still going out to enjoy her life.

So parental responsibility is a very important thing, and it is something that needs to be done. And it would certainly help with our social ills that we certainly have today, Mr. Acting Speaker. For parents that feel that some of these measures that may come are too punitive, then they need to think about those things as they are raising their young people. And not just think that they are some little toy that you put up and put on as you like. Because they are not a toy; they do not go away, they come back. And if somebody else gets a hold of them, while they are not with you, and taught them something that they appreciate, and then they bring that back into your house.

So you have double-trouble. What they see in your house, what they learn on the street—and they learn on the street at a young age.

The other thing, Mr. Acting Speaker, is that we have to monitor what our children watch on television. Contrary to what anybody thinks, television plays a very key component in some of our children's lives. And even some of these video games that we may get for their PSP's have age limits on them. The movies that your children may watch have age limits on them. As parents we much ensure that our child does not play with a game that is rated X. Or, if it says PG-13 and they are 8-years-old, well, sorry you cannot play that. You have to wait until you are 13.

I mean, even with some cartoons, because of the violence level, Hollywood has even had to get rid of them because of the fact that it is too violent for young people to watch.

With parental responsibility . . . that it how serious we have to get about it when it comes to raising our young people. As I tell people all the time, "I do not baby sit anyone's children. I raise. You have to bring them up." Babysitting is what people do for a living. When you *raise* your child, it is not what you do for a living; it is what you do out of love, compassion, your heart.

Nothing that I have observed, Mr. Acting Speaker, is . . . we have young people in this country that are involved in different things. Sometimes our young people are required to be in the company of other adults. And we must really be mindful of these adults that are running various different programmes, and involved with different organisations that are with our children, and the environment that they are in.

Because one thing about young people today, they observe a lot, and sometimes they say very little. Then, all of a sudden, you hear them say something. Then you say, *Where did you get that from?* And because they have mastered it so well, they could have just picked it up once. But it is because it is a learned behaviour of observation. That is the other thing that is very important when it comes to this parental responsibility with our young people as we go forward in life, Mr. Acting Speaker.

One other note that I would like to make, Mr. Acting Speaker, before I take my seat, is that our young people are our future, that is what we have. So we must raise our young people. We must be good to our young people, and we must also show our young people some respect. So, even if our young people are going through tough times, we must also ensure that we give them that hand-up to help them along.

The other thing that we also must do with our young people, for the professional caregivers and the people that have these professional services that offer our young people, is that even if the parent may have been an issue through the system, we cannot take that out on the child, and say *Ugh, I knew that child was going to be like this here.* We must do what we can to help this child.

These children have a tendency, even though their parents may not be doing the best job, they love their parents, because that is their parents. They have a natural love towards them. It is difficult for you to talk against their parents, while we have to find a way to guide them away from what they see their parents doing, what they may observe family members doing, just so that they can become more successful and productive citizens within this country.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Mr. Tucker.

The Chair recognises the Honourable Member, Mr. John Barritt, spokesperson for Legislative Public Administrative Reform, Devonshire South Central, constituency 12.

Mr. Barritt, you have the floor.

Mr. John Barritt: Thank you, Mr. Acting Speaker.

One of my colleagues said to me, "Oh no. We are not going to have another *My, my, my, my* speech with respect to this legislation."

"No, you are not. No, you are not."

I will say this: Oh dear, I never thought that I would see the day when the Progressive Labour Party brought forward a piece of legislation that the United Bermuda Party tabled, must be 12 years ago now, Mr. Speaker, and for which we at the time were roundly criticized.

An Hon. Member: My, my, my, my, my!

Mr. John Barritt: Roundly criticized, Mr. Speaker. And the interpolation coming back is, "It is a different time."

Well, that is true. The polls are in. The Progressive Labour Party is catching up to the United Bermuda Party on this particular Act. In fairness, Mr. Acting Speaker, all of us are in favour, all of us are in favour of encouraging and drawing out and making possible greater parental control and responsibility of our children. No question about that. And I think that is the theme we have heard here, so far this evening, from a number of people who have spoken, and I have said in interpolations (only to my colleagues) that it all is sounding a bit dreamy, Mr. Acting Speaker. Dreamy and not based in reality. And I would like to inject a little, what I call, reality into this debate this evening, and maybe take it up a level, Mr. Acting Speaker, and speak to the legislation.

I think that we need to get real on what it purports to do, Mr. Acting Speaker. It purports to deal with a problem after the fact. It is like, to my view, we are looking to put bolts on the barn door after the horse, if you will, Mr. Acting Speaker, has long since bolted. We are playing catch-up. We are playing catch-up. Some people have said "12 years later." I will not be so harsh.

The question we want to ask ourselves here today as legislators is whether or not this Bill is going to improve life in Bermuda. We know the question has been asked. Not directly. Is it going to make life safer for everybody in Bermuda? Is that what we are doing?

If the Government is trying to sell it on that basis, I am not buying it, Mr. Acting Speaker. I am not!

But do not get me wrong. Do not get me wrong. I think that a note of caution needs to be sounded here as we look at what we are doing. And that we do not fool ourselves as to what this Bill may or may not be doing.

The Minister, the Honourable and Learned Member, who introduced it, said at one stage that he hoped it would not become just a symbolic gesture. I know what he means by that. Sometimes we pass legislation up here—it looks good, it reads well in the newspaper the next day, sounds good with sound bytes on the radio and television—but at the end of the day (what a awful expression, over used, Mr. Acting Speaker) when these things start to play out, they always seem to fall short. They always fall short.

The point has been made by a couple of Members here today. Are we going to have, are we going to put in place the infrastructure and the resources to make this work? I am afraid that I cannot answer that question with any detail, Mr. Acting Speaker. I cannot. But it is a question that has to be asked. And it is a question to which you hope that Government Ministers would speak to convince us, and the community, that it is going to work, that we have the resources.

Because the question has to be asked if there are the resources at play in this country with respect to probation orders, child services, social services, the alternatives to incarceration, the Mirrors Programme . . . what are we doing here today passing this legislation?

An Hon. Member: My, my, my.

Mr. John Barritt: Because the system is not working.

What we do already have in place does not have the resources. It is not doing the job. And, you know, I would have loved . . . this is one of the deficiencies of our current system, Mr. Acting Speaker—which I rail about all the time, and try to encourage change—is that we do not get an audit of what we have. We do not have a discussion from the people in the business, the business of dealing with these problems, as to whether or not this will work, and how it will work, and what some of the problems are.

I heard the Minister say that there was consultation with a number of bodies by the Minister or Government department responsible for this legislation (which I assume is the Attorney General's Chambers).

I did not hear the Family Centre on that list. I hope maybe they were, because these are people in the trenches who deal with the problem, who will tell you: "Mr. Barritt it sounds good, it looks good, but is it really going to work? Is it really going to change things for the people who need change?"

We have heard some dissertations here this evening or this afternoon, on what constitutes good parenting. But the difficulty is . . . and this is why we need a profile, I've said so often, of those who are in Westgate, those who are in trouble, to know what some of the conditions are that we are having to meet, what some of the challenges are. We have heard that single-parent households are a problem.

And I look at this and I say, with respect to these orders, Who is it going to bite? Who is it going to affect? Who is it going to change? And is counselling really going to work? Can you really make this work by orders and by laws? Yes, you can try. You can try to encourage. But if you do not have the resources there at the other level . . . I just despair that this may not work.

Even the policing of this . . . now these antisocial behaviour orders have been in place in the UK for some time and they have proved useful to the police with respect to targeting specific hooligans, particularly at football games. So there it worked. It was a tool that worked for a specific instance. And maybe there will be some specific instances here that these will be useful in. I do not know. I have not heard any examples. But the sheer the policing of this is going to be a problem. The sheer policing, I can see is going to be a challenge.

When I heard the Minister speak . . . honestly, I am grateful for that because this is the kind of audit, the kind of facts that we need to have when we discuss something like this. When he talked about the overload on probation services and some of the other . . . six-fold I think you said, Minister, since 2005?

Holy smokes!

[Inaudible interjection]

Mr. John Barritt: Holy Smokes!

You know?

And we have an education system which the spokesman for the Government in another place gave it Fs. Put some Fs on the system . . . Sorry! He *gave* a number of Fs to the system, Mr. Acting Speaker . . .

[Inaudible interjections and general uproar]

Mr. John Barritt: Four of them!

[Inaudible interjections]

Mr. John Barritt: I took that back. That was a slip.

The Acting Speaker: You meant A, B, C, D, E, F.

Mr. John Barritt: That is right. He did grades, Mr. Acting Speaker. You are quite right. That is what I understood.

These are some of the real challenges we have. And here today we pass this legislation thinking that we are going to change things.

I have to say that I suppose . . . I sat around the Cabinet table in '98, so I was there when we put that parental legislation forward. And I am sure that if I sat around the Cabinet today. . . These are some of the questions that I would be asking, though. And I hope that if I were in Government I would be able to address them and give them some of the information as to why we think that this will change things and how it will be effective.

Unfortunately I am not in that position. You know, if you are not in the Cabinet and you are not in the caucus, where you can ask these questions, you have to rely on what the Government shares with you when they bring forward legislation.

And I am sorry, as a Member of the Opposition . . . we are not just entitled; we ought to ask these questions. We ought to make these kinds of comments, because we have to understand. The public has to understand how and why this can change things, and whether or not the necessary resources, as I say, are going to be there to make it work.

I look at something, just like the Victor Scott Summer School programme that was recently in the news. We could not find the funds from Government to support something like that, where they are trying to target 45 children identified as needing help by teachers who are prepared to work during the summer.

That sort of stuff is astounding, Mr. Acting Speaker. It is astounding!

Then we come up here with a piece of legislation like this, and as we go into Committee we will hear some of the details as to how it will work. But I am just saying . . . here is another thing. We talk about parenting and how we will make people more responsible, talk to some of those mothers who are looking for maintenance from fathers, or vice versa, and the backup of maintenance payments. I mean, there is a problem right there that we do not seem to be able to get on top of. Goodness gracious!

Now we are going to have orders to make parents do this, that and the other. What parents are you talking about, if you cannot get them on maintenance payments? What are we talking about?

That is what I say: It tends to be all a little dreamy. Yes, it is important to adhere to and to espouse and to endorse principles of good parenting and try to bring it about. But, I have to say, and I have said it, and I won't repeat myself now. You scratch your head in wonderment as to whether or not we can really make this work, or whether this will be another case of looks good, sounds good, let us move on to the next problem—but, in fact, we have not dented the problem at all.

Unless we do this in some kind of sustained fashion . . . people have talked about the need for counselling. There is provision for that in here. But we need to do this, not only in a . . . under this legislation it is a punitive way.

Someone talked about how elsewhere, in England, these antisocial behaviour orders are a badge of honour. Hello! Do you live in Bermuda? People go to court and Westgate and wear that as a badge of honour.

The Acting Speaker: Yes.

Mr. John Barritt: Goodness gracious!

Let us get back in the real world here in Bermuda. You have seen them on television and in the newspapers as well, and not just the people coming in and out of court, but the people who are there to support them.

Holy Smokes! We are not being real here, Mr. Acting Speaker.

So I hope . . . as I say, I understand the need to do this. We proposed it 12 years ago, put it on the table for discussion, but we were roundly criticized for even approaching the subject. Goodness gracious!

I do not think that we were called all matter of names then. I'll save that and my "My, my" speech for the next item coming up—which is the Court of Appeal Amendment Act. But I hope that this will not be a case, as the Arabs say, "Where the dogs bark but the Caravan moves on." Which is to say that people talk, make grand speeches, but nothing changes.

Things have to change, Mr. Acting Speaker. And we have to get off just doing legislation because it looks good and sounds good.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Mr. Barritt.

I recognise the Honourable Member, Mr. Ashfield DeVent.

Mr. DeVent, you have the floor.

Hon. Ashfield E. DeVent: Thank you, Mr. Acting Speaker.

Who would think that the State legislators have to consider how to make parents responsible? Who would have ever thought?

But it is not unique to this country at all. It seems to be a problem that is confronting societies all over, particularly those so-called progressive societies that seem to be . . . western societies. Let us put it that way. It seems to be a western problem. I mean, they have passed these similar types of legislations in the UK. They have passed similar types of legislations in most of the states in America. In some places it seems to have work and some it did not seem to be successful.

It is almost sad to think that at this point we are forced to try to attempt these methods to try and make people responsible for their children. I mean, it is mind boggling.

If you tell your grandmother, or some of our grandmothers could not even conceive that the State would have to somehow get involved at this level to me to look after something that was my responsibility. People just knew that. They took on that responsibility and they did as they had to do. And I think in some cases, in a time gone by, parents told children that if they did certain things . . . when they had that *Birds and the Bees* conversation, they said when you make those children they will be your responsibility and your life will certainly change.

I think that we are in a society now where you see some of these even younger grandparents looking at that child as a new toy as well. And they get all involved and do not actually make their child, the new parent, responsible for what they have created. So we find ourselves in this serious dilemma.

Strange, Mr. Acting Speaker, I did some reading about these particular laws in other places. The United States has had them for quite some time. I guess, as they say, if the United States coughs, we catch a cold. We follow a lot what is going on. I think that our young people have followed a lot of what goes on there. We follow it, good and bad. And it affects us.

It was interesting to me that it seemed like in some of the places, some of them have actually been there long enough to look at statistics and get some numbers to see what effect it has had. In Oregon, apparently, they introduced it around the same time they introduced it in California. In Oregon, for whatever reason, it seemed to have some big effect. I guess it is the type of place it is. It is the lifestyle that is lived there. Probably some of the standards and social circumstances that existed here, like I think my colleague, the Honourable Dale Butler spoke about, it probably is a stronger church-going place. Those things have a . . . they seem . . . because I think generally people in those countries felt the need to be responsible.

I think that in California a somewhat looser lifestyle did not seem to have as much of a good effect. And the numbers of teenage delinquency problems did not, in fact, drop at all.

We all know, Mr. Acting Speaker that parents are extremely important. Not one of us will argue with that. But we also know that there are other circumstances, there are other conditions that affect what will make children successful in this world. I mean, we can talk about family structure, how the family is put together and what we had before and extended family, family structure.

Then we have economic status. It has been said, and the statistics will show, that those at the bottom of the economic ladder will probably be those who will be most affected, or find themselves most affected by these types of legislations. Economic achievements, both by the young person and the household that they come out of . . . because young people who tend to do well academically in school have a pride about themselves and have a desire about themselves to go other places as opposed to going to badness.

Peer groups. We find were peer groups affect our children. And that is one of the things that we see now played out now with the groups and the mindset to follow and to get involved and negative activity.

And then community attachment. I think the Honourable Member, Dale Butler, spoke to that as well. He talked about how in the past we had that community involvement. And we had institutions that we were involved in, like church. And those institutions made you feel part of the community and they also, Mr. Acting Speaker, reinforced what thought was good behaviour from us.

I mean, we are at the point now that . . . I see this. I see parental responsibility and the question becomes, What is a good parent? Really, what is a good parent? Is a good parent a parent that works 18 hours a day in a big company somewhere and can pay and give you everything that you need, and not necessarily give you the time? Because I sit in court, Mr. Acting Speaker, so I see people at both ends. I see people at both ends.

Generally I do not see too many that come from those households that are flowing with money. Some probably do not make it. They can get lawyers and get things done in another way. But I see both ends.

So then you question, What is a good parent? Because I come from a community, Mr. Speaker, that has . . . I represent a community that has lots of single parents. Lots of single parents. And just as we would have some really bad parents there are some great parents in single-parent homes that raised some very,

very respectful, hard-working children who go on to be very successful members of society.

When we talk about parenting, maybe we need to step back for a while and say, from a society perspective, What do we define as a good parent? What makes you a good parent? Because I see in court some people who were children of very successful people in court for calling police racial names and all of those types of things. Then you wonder now . . .

[Inaudible interjection]

Hon. Ashfield E. DeVent: No, you wonder, Mr. Speaker. I mean, on the outside that appears to be a good parent but maybe, Mr. . . . and say that as well.

But, Mr. Acting Speaker, you wonder now how much of all that takes place in that home possibly. Children are a reflection of us. As one person says all the time, "adults creates and children imitate."

So here we are now, Mr. [Acting] Speaker, with the State attempting to try and straighten out our young people.

You heard the Opposition say that they were going to do it some time back. But we also must look at what we are dealing with, Mr. Acting Speaker—the effects. And if we go deep enough and look at what may have caused many of these issues we have to go way back. We have to go way back and begin again. So, look at some of those family structures, and let us look at even parenting in the sense that . . . and that is what is worrisome. Because we have heard parents say, we have heard Members say that time is important.

You have those who makes hundreds of thousands of dollars a year, who were too busy making that money to sometimes have time for their children. And you also have those at the bottom end of that ladder who are struggling to make ends meet. They are too busy to spend that time with their children. So this is an issue that society must really look at, must really grapple with, and must admit that in the past a lot of it we did not deal with. A lot of it we did not deal with.

We now see beginnings of some social talk just effectively talking social issues. And we are seeing some legislation come from a social prospective to begin to put some wrongs that have been here, that have festered and grown from a long time. This is not something that happened over night. It did not happen in 1998. This has continued to grow and grow and come in here.

Mr. Acting Speaker, the media . . . I think that I missed that one out. That is another one that has a huge effect on how our children think and how they act. And some scientists say that it has a greater effect on our children then parents. In many ways it is one of the big ones now. It is one of the main ones. It is what they see on television, it is what they hear. The music, the access . . . I mean, everything that comes has its good and it has its bad. Even the Internet. It exposes them to a whole new world of—

An Hon. Member: In seconds.

Hon. Ashfield E. DeVent: In seconds. And at just the push of a button they can be exposed to all kinds of stuff.

So here we are, Mr. Acting Speaker, as legislators trying passing legislation to make parents responsible. Wow! And this is what we have to do. The Opposition has said that they wanted to do it, now here we are doing it.

One Honourable Member's question: How much will it work? And even I have some of those questions in my head. How much will it work? Because some people might say, *Bad parents; just bad parents.* We have to provide all those opportunities. We have to put it there in front of them—the chances and the opportunities. But let's face it; some people are just never going to be good parents. We see that reflected, because the Honourable Minister of Social Rehabilitation has told us on a number of occasions how they had to find more foster parents, and how some people just don't want to do it. Sad, but that seems to be something that the society has always created, but seems maybe to even be creating more of that.

One of my concerns, and the Honourable Member on this side, Mr. Barritt, raised it, is that we are talking parental responsibility. As a reporter way back when I did a story on unpaid child maintenance . . . it is a huge issue in this county. A huge issue! An issue that when I really looked at it . . . the court says, the judge says, "You are ordered to pay $60 a week." Whatever you are ordered to pay, you are ordered to pay it!

That parent—and I will not even say man, because it is male and females who have been ordered to pay this—they walk out of the court and do not give it a second thought. And that is reflective of something that has been happening in this society for awhile were we now have a whole group of people who do not give two heck's about the law; the respect for the law.

So here we are. We have come to this. And this is needed, and that is okay. But if we cannot collect a basic responsibility of a parent whether they are in that house or not to provide or help to provide food, clothing and shelter, and when the court says $60 and you walk out and now this country is faced with, I believe (because I have not been able to get the figures) million of dollars of unpaid child support. Millions! So, yes, we have a real problem about responsibility.

Some of these parents, particularly some of these boys, these males are driving around in fancy cars, wearing hundreds of thousands of dollars of gold around their neck.

I had a conversation with one who said, "What is the Court poking with me for?" He is angry That he had gone to try and get some assistance from Government for something and they said, "You own like a 60 foot boat. And you do not qualify." And his thing was, "What do you mean?"

Now, here I am as a man talking to another man to say, "Hey, if you have children, mate, maybe it's time to get a rubber dinghy and sell that boat and put that money where it needs to go." Priorities! Somehow this society has gone so far astray . . . well, not completely, but far too many have gone so far astray of basic priorities. And that is what, even that person that we look at that has that child even in the best of schools, is working every hour to maintain that. Are they really a good parent?

So clearly, What is a good parent? When we say this, what is a good parent?

It seems to me that far too many parents do not have or do not exercise the time that children require, because we give our children things. That is part of the materialistic society we have become. We give our children things. Even those at the bottom of the rung, whatever way that they do it, they get enough money to provide their children with *things*—and they do not make them earn it. Hundred and fifty, two hundred dollar sneakers, the newest this, the newest that, and the society has to begin to now collectively—and this is going to be a lot more than legislation. We are going to have to begin now to really collectively say we must . . . Well, let us put it this way, Mr. Acting Speaker. I think that some of the problem that we have now with people not having respect for rules and law, starts in the house; it starts in their house as well.

It seems in the old days when parents said "No" or parents said "That is not the case," that was it. They did not even question it. It was the rule or the law of the house and that was it. You did not question.

Now, somehow, as the Honourable Member, Mr. Butler, spoke to this new "Let them express themselves." And they have some say in it as well. No. It does not work that way, Mr. Acting Speaker. In the household, until you are able to provide for yourself, then those are the rules.

Somehow we have drifted away from what really are the rules and then we saw some people, even within the school system, begin . . . and I am glad to see that was done. So like, some people came along and started to reinstitute rules. This is the uniform. This is the way you must be. And that is just the way it is. It is not a question. It is not a discussion. That is just the way it is.

Much of this, Mr. [Acting] Speaker . . . Again I think that it is great. Hopefully, we have what is required to make it all work. That is the key part—making it all work.

Sometimes, I guess, because I see both sides of it on a regular basis . . . to see us pass legislation to our legislators, even in our cases where we up the sentences for certain things, and then see the judges finally begin to put the sentences on to see the Court of Appeal come and over turn them.

So at this level this is all we can do. We have done it now. We have put this here. I am fully in support of it. It is going to take a whole lot more effort collectively with the community.

It is interesting to hear, I think, what did they say 69 or 60-some per cent support. And I think that support now has to be turned more into some action from all of us; because this is something that is going to require the effort of all of us. Even to the point, Mr. Acting Speaker—and sometimes it is difficult to do—of pointing out to parents that when you think that what they are doing is not necessarily right.

I mean, that is how we used to be. But it is almost now that people . . . this community got afraid to actually tell other parents. So now where are we, where the State . . . because somehow society seems to have lost some directional traffic on what is good parenting and good parents. Now, the State, the country, the Government is involved in trying to do it. This is not something that we would hope or wish to see but it seems to be a problem across the western world.

The Government has done many things that can help to alleviate this problem, free childcare. But it is something that we are going to have to continue to do. I think that we have been a country far too long who bragged about being 3rd or 4th richest in the world and in the meantime there were a whole lot of social problems that were festering, have been festering. And the Opposition at that time bragged about being the 3rd, and we were priding ourselves on being so rich. But we did not get here, where young kids are shooting each other and banging each other in the head and setting each other on fire and murdering people at 17, 18 and 19, overnight.

We did not get here in 1998. This is a long process of people who pretended that . . . or it is kind of, I guess because we had a halfway good standard of living, we just did not acknowledge that these things were happening, or could happen.

Money came easy and we were blinded. But at the end of the day, Mr. [Acting] Speaker, clearly the legislation is here, it is going to take much more than just legislation. It is going to take us all to get involved somehow and to push it, and to set standards and to maintain them.

Thank you, Mr. [Acting] Speaker.

The Acting Speaker: Thank you, Member.

The Chair recognises the Honourable Member, Mr. Swan, from Southampton West Central.

Mr. Swan, you have the floor.

Mr. Charles F. B. Swan: That paper was helpful, Mr. Acting Speaker. Thank you.

I have listened to most of the speeches here. One of the things that I just want to touch on, and my colleague, the Honourable and Learned, Mr. Barritt, sort of stole a little bit of my thunder, but that is quite alright. I am going to proceed anyway.

Many of us sitting around this room, Mr. Acting Speaker, are parents. I imagine if I asked for a show of hands I might get, I do not know—none. I am just looking around, maybe one or two who are not parents. Mr. Acting Speaker, I am sure that all of us can agree that as parents we realise the importance of being responsible. The fact that we sit in this House is probably a testament that our parents were probably responsible in raising us and introducing us to life.

Mr. [Acting] Speaker, the problem I have is that we are here today trying to make (I'll call them our children) our constituents . . . we are speaking on legislation here to (I'll use the word "assist" for want of a better word, but) really to force people to be responsible with punitive measures, and, yes, some help.

I look at the people around this room, and, Mr. [Acting] Speaker, I believe that the general public out there look at us too, and sometimes many of them, or a good number of them, will ask, *Well, how responsible have we been in our daily action in this House?* Not just in this House but in the public eye as well. What do these constituents think of this body talking about being responsible, or asking, or forcing them, legislating, that they be responsible?

Now, an Honourable Member, I believe who brought this legislation to the House today, interloped earlier that times have changed. Because this type of legislation was introduce by the United Bermuda Party 12 years ago, and we were vilified for it, and now times have changed.

I do not necessarily subscribe to the belief that the times are as they are now through events that happened 5 years ago or 10 years ago or 30 years or 130 years ago. I believe that it is basically a process of inaction by those—like us—who sit here over the years. But, Mr. Acting Speaker, the problem has really gotten totally out of hand in the last six years, or seven years, perhaps. Totally out of hand. I cannot see how all of that can be put on events that happened before some of these people were born. Okay? Or their parents even.

Mr. [Acting] Speaker, I am talking about things the people see, said and done for whatever reason, and I alluded to this I believe I was speaking a week or two ago. Where does a young girl of 9-years-old have the wherewithal to tell her white school friend, the same age, that she is white and does not belong in this country?

Last week, Mr. Acting Speaker, and I did not speak last week on the Court of Appeal Amendment Act brought by my Honourable Colleague that has been on the Order Paper here since November last year and was turned back last week. But the prime motive for bringing that legislation stems from the Middleton case many years ago.

Now, Mr. [Acting] Speaker, I recall those days during the Middleton murder and the trial and what have you—

T**he Acting Speaker:** That is already on the Paper to be talked about again—

Mr. Charles F. B. Swan: I understand that. But what I am talking about is, we turned back one piece of legislation last week, there is another piece that just come on and that is going to be talked of next. Why? Why? Why?

That particular case left me with the real feeling—and I can recall how I felt back then—of what kind of Island do I live in where the criminals get off. Okay?

I am bring that forward now. I do not know how long it has been, 13 years or more than that? And we are just considering doing something about it now.

Mr. Acting Speaker, I believe that Governments are charged with protecting their people with providing services that they need once their need is established. I do not see the logic of the better or greater good and being responsible when questions are asked . . . and I am trying to get people to put themselves in the position of listening to this, or their children listening to what is said in this House, done in this House, and perhaps elsewhere. Things like questions not being asked because it is a plantation question. I just wonder what people listening think when they hear things like that, and how they act, our people, based on what they hear.

Sometimes I think that many of these comments are really not very positive, number one, and do not serve the greater good. I believe sometimes that these types of things make a certain segment of our people believe that most, if not all, of their problems are caused by others. So, they will not, do not know how, will not seek, take responsibility for their actions.

But, be that as it may. They have been said.

The Member who I believe mentioned bringing this or this type of legislation forward spoke in 2008. And I am quoting from the *Royal Gazette* here: "If a child is charged with a crime it is my view that the parent should be standing in the dock charged with them," he said back in February 2008.

In 2007 the United Bermuda Party had in its platform an idea to do with punishment—three strikes and you are out. And we were vilified in 2007 for that comment, Mr. Acting Speaker. Here we are today bringing forth parental responsibility. I will just throw that question out.

Now I am going to go to the actual Act, which to me really is, I do not want to call it window dressing. Look, Governments are charged with doing things. This was, I imagine, discussed in the Cabinet of the

Government over the last two years. I really would like to have been a fly on the wall to hear how this got through; if it met with any resistance what . . .

I imagined discussed in the Cabinet of the Government over the last two years. I would really like to have been a fly on the wall to hear how this got through, if it met with any resistance, what was discussed and that type of thing over the last two years. But, it is here now.

There is a large body of evidence out there, Mr. Acting Speaker, from other parts of the world, who have all ready enacted similar legislation. There are case studies and the like. But, this piece of legislation alone, certainly (and it has been said by one or two Honourable Members already), is not the answer, is not the cure.

Here is where my honourable colleague, Mr. Barritt, sort of, you know, got into what I wanted to talk about and that is that we really, really have to address the underlying causes of—call it delinquency in our youth, the underlying causes. And, while one may think it may be the actions of some white slave owner 150 years ago, or 130 years ago, much of it is not. And I have done a little bit of research, Mr. Acting Speaker, and I downloaded a whole bunch of things. One of the things I managed to come across was [that] there are basically four factors—parenting factors—related to delinquency. They can be grouped in four different areas: One is neglect—and that is sort of like poor parental supervision, inadequate parent/child interaction—those are examples; conflict and discipline—nagging in the home, harsh or erratic or inconsistent discipline; deviant parental behaviours and attitudes—that is, criminality from the actual parents themselves, or parental violence or tolerance of violence; and then the fourth one was family disruption—chronic spousal conflict or marriage break-up.

Four distinct causes of delinquency, and there are probably others. But there are some things that you can change and others that you cannot—[things] that Government can tackle and things that they cannot. Those four, I believe, are things that Governments can tackle.

Now, I know that, you know, the nuts and bolts will come hopefully in Committee, when we get there, but there is a lot that has to be done behind this legislation to actually make it and help it and help everyone else involved to make it work—a whole lot.

I believe the Minister for Social Rehabilitation spoke about the cross-ministry initiatives. Well, this is a prime area where partnerships between ministries are required. In other countries, I believe, the police have linked with local authorities and even with schools to develop areas where the underlying problems can be addressed at an early age or at an early stage in the process. And it is going to be very important that this Government do the very same things.

One of the other areas that has to be addressed is early intervention with new parents, or with parents who it is known, once they are referred, have issues with support, with seminars, all of these types of things.

The community has to be involved. An Honourable Member who spoke a little earlier mentioned youth centres. Churches should be engaged, Mr. Acting Speaker. I firmly believe that one of the problems that some of our potentially delinquent youth face . . . a lot of kids get to school and have not had a proper breakfast. I believe churches are well placed within the community to, number one, discover who they are. Many of our churches have kitchens. I am sure the business community would buy into it, provide milk and cereal or something, so that those who need it in the morning get a proper breakfast in school.

Mr. Acting Speaker, we do not have local authorities, we have the corporations, obviously, but we do have parish councils. They are an avenue to which families who have issues can be funnelled and also be involved in the whole process of addressing and intervening early so that we do not have to use legislation like we see here.

My honourable colleague (I believe it was Mr. Barritt) talked about Westgate. And we have a facility down at Westgate. Now, I know that Westgate caters to sort of older children. But even at the training schools, we have to address the real issue of making these places perhaps a little less attractive. A colleague mentioned that some people wear it as a badge of honour to go to Westgate. There are many recurrent criminals who commit crimes just to go to Westgate because they know it is Christmas time and they will get a good meal and a bed. Making them less comfortable and these types of things I believe are issues that need to be looked at.

Of course, I touched on a piece of legislation . . . the whole legal part of the process perhaps needs to be looked at as well. For some of these things to do with anti-social behaviour orders, you need them addressed in a fairly expeditious way. Not only that, in many cases, you are relying on private citizens as witnesses to come forward. And that is not always an easy task, especially in a small community like we have here. And we are seeing it today with the types of crime [that] we have.

Mr. Acting Speaker I am going to end here. The nuts and bolts are really the key to this. My honourable colleague, Mr. Barritt, talked about, you know, *the dogs have barked but the caravan keeps rolling on.* But I am hoping that that saying, *the more things change the more they stay the same,* does not apply with this and the Government moves swiftly and expeditiously to put the nuts and bolts in place to make it work.

Thank you, sir.

The Acting Speaker: Are there any further speakers?

The [Chair] recognises the Honourable Member, Mr. Perinchief.

Hon. Wayne N. M. Perinchief: Thank you very much, Mr. Acting Speaker.

Mr. Acting Speaker, this debate actually takes us to the core of our societal framework. I was very heartened to listen to your speech, inasmuch as you referred and alluded to what we perceive to be the norms of our western civilization. And, whilst we do not want to get too philosophical, we have got a specific Bill in front of us—the Parental Responsibility Act.

We have to accept that parents operate within the framework and the environment that they find themselves in. And I think that what we are seeing is a diminution or reduction of collective responsibility of individuals to the society and societal norms, and a proliferation—certainly an increase—of what western democracy and philosophy will consider the primacy of the individual and individual rights and the right of individuals to express themselves.

We see examples of that, Mr. Acting Speaker, in the resistance of young men in particular to conscription. And, whilst I will not put my oar in the waters around conscription in the context that individuals are saying that they have no responsibility to the society—they do not have to abide by collective norms. And here is one of the main problems that we struggle with—how far does the State intervene in that concept that a village raises a child?

Again, while it is a philosophical position, we may say that there is a struggle—the primacy of the individual versus the primacy of the State, the primacy of society; the selection of individual choices over collective choices.

We see even the rule of law being challenged at every turn. And I think that because our society is evolving so rapidly, even with Government institutions we see this conundrum of how much, how far do we reach into individual rights, how far do we go to enforce the rule of law and law and order as opposed to giving people more choice as to how they obey the law and their rules for life and living in this society?

I mean, we have see things like the changing of the police force now to a police service. We understand that we had to introduce alternatives to incarceration so that there would not be this high rate of recidivism—to break our people out of that cycle of imprisonment, punishment and the return again to imprisonment. We now look at rehabilitation of the individuals.

Mr. Acting Speaker, I believe we understand that the primary influences on young people and on the development of the child [are] peer pressure, the media, parents, school. And we also recognise that early intervention is an important component of that. We have heard that already from other speakers. And I believe that we have got a small window of opportunity between birth (or age one, if you like) to age eight, when an individual's attitudes, their appreciation for what is right and wrong, is imbedded in that individual. So we have got a small window of opportunity to intercede in what that young person, perhaps, is going to be and how they will react to society—and that is from birth to age eight.

So, we can see that as a Government we have to concentrate on the institutions that we have in place to recognise those people who are at a higher risk.

But, Mr. Acting Speaker, how do we pay for all of these institutional reform mechanisms? How do we pay for all of the responsibilities that the State and all the institutions that the State has to support to ensure that we develop a healthy society?

Mr. Acting Speaker I understand that this Parental Responsibility Act does to a great degree concentrate on punishment of parents for not controlling their out-of-control youth. But I am wondering to what degree we impose fines and sanctions against parents when, in fact, these parents are already under stress. And some people might say that, *Really, it is the economy, stupid. It is the economy.*

And you yourself, Mr. Acting Speaker, and the Honourable Mr. DeVent, have spoken to that factor. That poor people seem to be more at risk. And I would agree, because poor parents, be it a single-parent household or two parents, are at a particular disadvantage when it comes to time—time when they can be with their young children. If they are holding down one or two jobs, or if they have no job at all—which is even worse—they do not have the resources or the time or the inclination, really, to deal with young children, to deal with parenting.

And I am certain that in some instances there are maintenance orders that go un-serviced because that parent does not have a job—they do not have money. Garnishing the wages of a non-existent job of a parent who does not have a job is a futile exercise. And while they get mired in more debt, more frustration, they do not see a way out of that spiral.

You know, even when it comes to parents who manage to get their children to age, say, 13 or 14, when they are at a crucial stage where they are going to move out of middle school to high school, rich parents have an option in the main to send their kids to boarding school when they are coming along, coming into the problematic age of pre-puberty and puberty. Poor parents do not have that option. So when their children are acting out all of the problems that come with early adolescence, the poor parent does not have the time, the money or the resources, quite often, to deal with those children.

And, again, the pressure comes back on the State. It comes back on the Government; it comes back on other helping organisations such as churches and other charitable groups to try to fill that gap, to fulfil that parental role. And you see organisations where they match young boys and young girls with

older people as surrogate parents—Big Brothers and Big Sisters—to fill that vacuum.

I believe, Mr. Acting Speaker, that as a very rich country and as a progressive country . . . and I do not think that we just simply pride ourselves on being progressive. From what I have observed and from what other people have told me (who come from outside this country), Bermuda is a progressive country. I do believe that the systemic problems that have come about, the systemic problems of having very, very rich people and a very, very rich society on the one hand, and an increasingly (and I say relatively speaking) poor working class society on the other, causes a type of disconnect between haves and have-nots that can only exacerbate the problem that we see.

And while we wring our hands and pass legislation to deal with gun violence and other violence amongst our youngsters, certainly we have to say that this is something that is systemic. We cannot say that this is a phase through which the country will pass. This is the way it is.

And I heard a speaker (who just took his seat), Mr. Swan, say that he does not apportion this to any, if you like, past situation. And I am not playing the blame game. I am only saying that the development of this country has been such that there has been an unequal development of one sector, one segment of the society, as opposed and when compared to another sector of the society.

I will not say that we do not all as a people face the same problems. But if you have got money and resources you can deal with it much better. You can hire specialists—psychologists and psychiatrists—and deal with your problems better if you have got the resources, if you have got the money, if you have got the connections.

So there has been an unequal development of the society. And I will not always attribute it to simply race—it is not that simple. It is more rich and poor. It is more those who have resources and have the education and have the enlightenment as opposed to those who do not have resources, money and the opportunity to deal with the problems that arise with youth who are growing up and developing and having problems.

Even the so-called . . . I will not call it "so-called." Even the drug problem is extant across the entire spectrum of our society. But if you have got money and resources, you can deal with the fall-out of drug addiction better. You can deal with all the social ills that may fall out of society better.

And it is not a simplistic paradigm, if you like—if you have money you are going to be better off than if you are poor, you are going to produce a better citizen—not necessarily so. It is not simply a unilateral analysis that I am describing.

But I am saying that, certainly, with this society and the problems we are facing at this time, I believe that we need to concentrate less on punishment. I think parents need help. They do not necessarily need penalties or punishment. I think they need economic support, not necessarily fines. I think they need financial help and relief, not garnishing wages and, you know, extracting child support where it does not exist. I think we should stop punishing and blaming poor people for the condition that they find themselves in. We are those poor people.

And you know while we portray wealth and affluence and all the rest, we have to really look at our status. It is all comparative. But if we have lots of wealth, and the economy is burgeoning and doing well, then, certainly, that money, that wealth has to be channelled to where it is most needed. And by whatever means that we do that—if it means that we have to change the tax structure, if it means that we have to have some form of levy to make sure that financially the Government can support the programmes that we are putting into place—then that is what we have to do.

When I describe this as a systemic problem, I mean it in a way that indicates that it is our base, it is our development, it is where we have come from. And we cannot just simply pluck out one fruit—parents. If you talk about "parenting," you mean in the same context as mentoring, then the bigger picture falls into place.

I do not think that this legislation in itself will simply fix the problem. So, whilst I support it, I do support it whole-heartedly, I do believe that it should fall into place with everything else that I have discussed—taxation, reallocation of monies, the way we sort of look at the big picture. I do not think that we can simply look at the small picture.

And when we talk about single parents, there are many types of single parents—those where you get a single woman who has a child, or has children alone with an absent father(s). You could talk about divorcees—and I would think that they form a very large group in our society. And I am glad we have gotten rid of the words "illegitimate" and "legitimate," because whether you are married or not in a church or you just had a civil liaison or link, or you simply got together because you liked each other and you produced a love child, I do not think that we should talk about parenting and parents in that way. I think we are much more mature than that.

When you talk about single parents, many of us came out of single-parent homes—either through divorce or separation. I am a product of a separation and eventually divorce. The oldest of ten. I have three brothers and six sisters. We are all healthy, we have all done reasonably well, none of us have been (so far) incarcerated. I contribute that not only to my dear mother who worked hard to keep us on the straight and narrow, I give credit to the neighbours, my relatives, the people I met, the people who kept me in check on Princess Street and Cox's Hill and Beacon

Hill and Sound View Road and all the rest. So a village did help to bring up this child.

Whilst I accept that some parents may wish to opt out of the village raising a child concept, then that parent needs to be brought into line too. Because we are part of a society, we are part of an extended family. I sincerely believe—black, white, pink or green—whatever nationality that you may choose as your roots, once you live in this small society we all impact on each other and we are all one big extended family.

I believe in the main Bermuda has, more than any other country, the ability to solve our problems rapidly. I would like to see an extension of that village raising a child concept. I know we will not accept anybody chastising a child, but I do not think that too many people would reject you loving their child and at least trying to steer that child right.

I know that some of them are hard to love because they are pretty tough little characters. But underneath that tough shell, they are all like eggs, you know. If you got close enough to them individually to get them away from the groups where there is no peer pressure, where they do not have the media, where they do not have the limelight—underneath individually they can be reached. At any age they can be reached.

So, Mr. Acting Speaker, I will take my seat and say that I support this legislation in its essence; I think that it has a component part to play. But I do not think that it is the be all end all and we should not look at it as a panacea. And I see that the United Bermuda Party prides itself with bringing it in 19…was it 98?

[Inaudible interjection]

Hon. Wayne N. M. Perinchief: Whatever year it was brought. It was probably progressive thinking at the time. But every Government, I am sure, has to come to the time when they feel that legislation is appropriate, and we feel at this time—the Progressive Labour Party—that the legislation is now appropriate. But we have put in place other strategies which preceded this legislation and we believe that the time is now right to bring it.

And I would hope and I believe they will—the Opposition party—accept it for what it is and for what it will do to take this country forward progressively.

Thank you very much for your time.

The Acting Speaker: Thank you. Are there any other speakers?

The Chair recognises Dr. the Honourable E. G. Gibbons.

You have the floor, Dr. Gibbons.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker I think that the last Honourable Member who took his seat had it about right. This legislation certainly provides a few more tools, but it is not a panacea by any stretch. And it needs to be considered, I think, in the broader context of other issues that need to be addressed.

I would like to go back to a few hours ago when the Honourable Member, Mr. Michael Scott, introduced the Bill. He talked about what he referred to as a wide range of consultation with a lot of different groups in the community—presumably Child and Family Services, a number of the Ministries, the Child Education Project, and quite a few others. And he noted that the Government had collected a lot of data—or whatever data could be amassed at the time.

I would like to go back and have a look at that because in many respects I was sort of hoping to get a little bit of a sense of what that data suggested that, you know, some parts of this, because, Mr. Acting Speaker, as you know, there a quite a few pieces to this Bill. We refer to it as the Parental Responsibility Act, but in fact there are a number of things here like the anti-social behaviour order, child safety orders—which have little to do with parental responsibility in a direct way and more to do with giving police or Child and Family Services the tools to be able to either isolate children or put them in situations where we try to seal them off from further harm.

But I was hoping we would hear a little bit more of a sense of what that data was showing. And I would like to, as a consequence of that, to focus particularly on the parenting order part of this legislation which allows an order to be made by a responsible police officer, I guess here, after consulting the Director of Child and Family Services, to require a parent to do certain things for a period of up to 12 months in relation to the child itself.

And the reason I am interested in that, Mr. Acting Speaker, is because you will recall (because I believe you were in the House at the time) back in 2003 we put through a very similar piece of legislation under the Education Act, which allowed a principal or senior member of a school to require a parent, essentially under the threat of prosecution, to do things like show up at the school for meetings with teachers with parent-teacher conferences, to undergo parenting classes or counselling programmes or things of that sort. And that in many respects is very similar—it is in a more specialised area, because it involved parent and child in a school setting.

But at the time I remember very clearly, you know, the debate was about we have got to hold parents responsible, some of the problems we are having in the education system are as a consequence of parents not doing their job, not being accountable, not being responsible, and we are going to put through this legislation which is going to allow us to hold parents responsible.

Interestingly enough, Mr. Acting Speaker, I have heard nothing about that particular provision today. I was rather hoping that the Minister of Education

when he got up would speak to it because I think it does beg the question. We have had this legislation, this ability to require parents, under the Education Act to go to parenting courses, to attend counselling sessions, to come and be with their child at a school level, to meet with teachers, all these sorts of things. But the question is, Mr. Acting Speaker, what were the results? Did this legislation work? Was it even used? You know, how many parents were actually prosecuted? How many parents were required, under the Education Act, to do these things?

All these questions, I think, are appropriate right now because effectively we have had seven years of experience with this particular aspect of the Education Act and yet this afternoon, Mr. Acting Speaker, we have heard nothing about it whatsoever. So, I either am forced to believe that it has not been used. If it has been used, it has been used very little or, essentially, it has simply been overlooked. And we are coming now with a larger hammer to crack, a bigger nut. But I think, obviously, it is important to try and understand, you know, through experience whether this kind of thing has worked.

And that is where I think we get back to this issue of—which the Honourable Member who introduced this legislation closed on—is this just a symbolic stance? I believe those were his exact words, is this . . . are the provisions we have in this Parental Responsibility Act simply a symbolic stance, or will they actually provide results?

And I would submit, Mr. Acting Speaker, that we need to know. I am hoping the Government went back and looked over those seven years and said, you know, these were tools that were actually helpful or they were not helpful. If they were not helpful then hopefully some of that, kind of, experience would have gone into drafting this particular piece of legislation.

But, as I said, Mr. Acting Speaker, I have heard nothing about it this afternoon and I guess I am a little concerned that here we are again in a desperate kind of way hoping that at least by part of this legislation, holding parents accountable, we can somehow get to this. But I am not sure in my heart of hearts, Mr. Acting Speaker, that I am a true convert in this.

I think the anti-social responsibilities orders are useful; the curfew in certain circumstances may be effective as well. We will have to wait and see. And some of the child safety orders may be. But I have to say that I am a little sceptical on the parents' side.

And I go back to where a number of other speakers have been in the course of this debate and sort of said, *Look, you know, by the time you have to put a parenting order in place, the horse has already bolted from the barn*—it is too late. We really need to be focusing—and, again, I come back to education—at a much earlier point. I think about some of the debates we have had up here about the importance—certainly from this side of the House, and I think it is shared by the Government's side—you know, put that investment at an earlier stage. Put it into issues of preschool, the screening for children at a very early age.

You know, I have heard a little bit . . . in fact, the Honourable Member who just took his seat talked about the rich and poor divide here from a perspective. But, Mr. Acting Speaker, you have had children, we have all had children, there are some children that are simply mother killers. It does not matter whether they are born to a rich parent or a poor parent, they are mother killers. And I think, you know, at a certain stage you simply have to, sort of, be prepared to wade in with both feet and do the best you can no matter how much money the parent has. I mean, I can tell you a number of stories about parents who have shipped their kids off to school and it has been an unmitigated disaster. You know, there are some children . . . you just need everything you have got.

So, I think we really need to be focusing—not trying to shut the door after the horse has bolted—but I think we need to be coming back to this area of preschool, school readiness. What are we doing..? What kind of investment? And is it sufficient (and I do not think it is) at a preschool, primary level to make sure that the appropriate screening is being done? That parents who are obviously having difficulty with four-, five-, six- and seven-year-olds are given the kind of support that they need to try and keep that child, whether it be male or female, from either killing them or just being an absolute unmitigated disaster—a nuclear device, basically.

I feel a little badly because there was a debate not too long ago in this House under the Child Care Act, where I think we had an ability up here—and this is catching it before it got too far—to, sort of, put in as part of that Child Care Act a provision which would have allowed parents to have some additional screening, maybe take some parenting courses, things of that sort before it got to the point where you are putting in an anti-social abuse order, where you are putting in a parenting order on the parent. These are the sorts of things I think we need to be thinking about up here.

And it is not an issue of . . . you know, some of these tools may not be useful, they may be. But I would submit, Mr. Acting Speaker, that in some cases it is just too darn late when it gets to this level. It may help in extreme cases, it may not.

I will end—because I did not really feel I needed to cover a lot of grounds in this because a lot of other speakers have—but I will end on the plea that others have said as well. This particular piece of legislation is going to put even additional requirements on Child and Family Services, on the police and other helping agencies here. And I just hope that they are ready for it. I have not heard anything about additional resources. But this is simply going to up the ante, it is going up the pressure on these agencies to be able to

deal with these child protection orders, with the child safety orders, with the parenting orders. Again and again it is either the police or Child and Family Services and I just hope—because we have not heard a lot about it—that this is not just window-dressing here, that there is actually a underpinning, a structure that is being put into place, additional resources to deal with what will clearly be fallout from this particular piece of legislation.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Are there any other further speakers?

The Chair recognises the Honourable Member. Mrs. Gordon-Pamplin, you have the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, way back in the 50s and early 60s I think most of us who were brought up in that era have heard countless times, *spare the rod and spoil the child.* Unfortunately, somewhere along the way, with an advent of a new attitude and approach towards parenting, somewhere we lost that control that we had in terms of setting an example as to what behaviour is appropriate for a child.

Then, at some point in time we started look at our little infants, and when we started to see the manufacturers taking advantage of the market that was there and the vulnerability of parents who wanted to see how wonderful and cute their little precious darlings are, and you find that all of a sudden you have got a hundred dollar Nike sneaker that is made in a size 0 for a child who is virtually newborn and these cute little outfits that parents felt compelled to follow the trends that were being established.

So we ended up with an attitude that we had an acceptance, as children started to grow and at two-years-old you heard little people speaking back to their parents—they can just about speak and you heard them talking back to mama. And mama is saying *Oh, isn't he cute?* Well, I can remember thinking—especially having become a fairly young parent myself—that what is cute at two and three and four is downright rude when it gets to six and seven and eight; it is intolerable when it comes to nine and ten, and it is completely out of control when you get into those adolescent and early teen years.

Based on that obnoxious approach, that obnoxious attitude that some of our young people get, we found ourselves going through a period, an era, where effectively parents were saying, *I can't control my child.* Hence, we find ourselves as legislators in a situation . . . . and I took the point that you made, Mr. Acting Speaker, that this is not a phenomenon that just occurred yesterday. This has been something that has been inching and inching and inching, but it is becoming progressively worse.

And I think, at the point that we spend a lot of time, resources, and energy fixing things at the back end, I think it behoves us as legislators—as well as Government put here to represent the people of Bermuda and listening to them—to focus a little bit more on the front end. Focus a little bit more on those parenting skills that are necessary in order to bring our children to the stage where we do not have to have this type of legislation.

Mr. Acting Speaker, I speak with pride of the preventative measures that my own parent took—my father died [when I was] a very young child—my mom was left to bring up five children. At a relatively young age herself and with not an awful lot of skills of parenting because all she knew was to *take a stick and lick her,* because that is what she learned. And I used to think that, you know, she was harsh. And, yes, it was harsh. But there was a respect that was built up within the family environment and structure that did not just emanate from the home in which you lived. It was put upon us by the extended family—those neighbours who were there, those grandmothers.

And, Mr. Acting Speaker, I can tell you that at the grand old age of 11, I was shipped off to boarding school for becoming an incorrigible child. Now, I believe, that those early formative years and the experience that I was subjected to did something along the way to say that, *You will stay on the straight and narrow.* And it came with a whole lot of love, but a whole lot of lashes. And one did not feel at that point in time that one's parent was doing anything that was untoward.

But we look in this day and age and you find that children, you know, there is this new parenting approach and children are prepared to take their parents to court because they are being ill-treated. Nobody would advocate the ill-treatment of a child. But the discipline of a child and setting out standards where a child knows what is appropriate, what is acceptable and what will and will not be tolerated has got to be the order of the day.

The purpose of parenting is such that we as the adult put ourselves in the situation of setting the parameters. And somewhere along the way we have lost that. As I said, you come along and I would sass my mother and then run up to my grandmother because my granny was going to protect me. She was going to lovingly do it. She would take me home to my mother. She was not going to harbour me to be able to deflect the punishment that I had so justly deserved. That attitude . . . somewhere we lost it.

So when we now look at this Parental Responsibility Act and we look at the reality that so many homes are single-parented, so many parents are challenged in terms of how well they hoped for their children to be educated and as a result not having an awful lot of confidence in the system that we have provided for them feel that they have to go out and do extra to get little Johnny and little Susie from point A

to point B educationally find that in the pursuit of excellence we are failing the very basic tenets of parenting.

And therein lays the problem. Because when mommy is out working two and three and four jobs trying to make ends meet to pay that private school fee that they can perhaps ill-afford but feeling that that is going to give their child a better opportunity, there is a certain amount of neglect that is occurring. Many of our children have become latch-key children and they have a television to be the parent when mommy still has not come in from work.

Can we fault the system? Can we fault the parent for saying that, *I want the best for my child and I have got to do that which is necessary?* Can we fault us as a community for failing? We ought to fault us as a community for failing to continue that nurturing that we had of our community, of our neighbourhoods.

I know that it is nobody else's responsibility to raise my child. By the same token, if I have to ensure that my child has a roof over his head and food on the table and I therefore have to work in order to provide that, there has got to be an underlying support system that helps so that we do not have little monsters running around in the streets, that we have got to look at legislation that would be applicable to a 10-year-old child.

This has got to be perhaps one of the most egregious things that we have probably had to face in this Honourable Chamber in the 11 years that I have been here. And as you say, Mr. Acting Speaker, it has been creeping in slowly. But it has now become systemic; it has now become probably more the rule that the exception and we just have challenges within our community.

Mr. Acting Speaker, our challenge that we have as a community is to try to ensure that our young people understand what is appropriate. And if we cannot be the ones who have examples set by even our own behaviours . . . if a child is looking at us and saying *these guys are acting really crazy and yet they want me to be a little angel.* We have to somehow hold ourselves accountable for the standards that we set to ensure that our young people have a good example to follow.

Now when we are talking about the punitive aspect of this particular legislation, one has to be a little more than concerned because, as I alluded to earlier, many homes are single-parented. And the question of support, financially, for that home by the absent parent is not always forthcoming.

And, you know, if we have a situation where a child has become totally and completely out-of-control, that it becomes subjected to the conditions that are being laid down by this legislation, that a child goes and creates either wilful damage or even perhaps just damage—whether wilful or otherwise—that a parent is going to be held responsible for and, based on the legislation, that parent is going to have to face up to something like $10,000. Now if you do not have 10,000 pennies to rub together at the end of the week to put food on the table for your children, how are we going to enforce a parent finding $10,000 to make good on wilful damage that an out-of-control child has created?

Are we not exacerbating an already bad situation by putting that onus on a parent? And it is one thing to say pay in instalments or whatever, but if you do not have it, you do not have it. You cannot get blood out of a stone. And that is the lesson that I think that we need to learn.

I think that if we are going to have an effective enforcement of this type of legislation we have to have our weighting on the other end of the spectrum. We have got to start putting the resources in the early stages, the formative stages, and, hopefully, once we churn this whole process through, that at the end of it we will have young people who are coming out of the system who are a little bit better equipped with proper decision-making discernment [so] that they do not have to be subjected to this.

As a mother of two young boys—well two boys, not so young. And, you know, I have been around a lot of young people. I have been around a lot of young men. And it is mostly the young men who create problems. You do have, more recently, a lot of our young ladies who just act the fool in the streets. And you sit and think this is equally as bad for any child.

So when we see these types of trends emerging and recognise that we have to nip this as best as we can in the bud so as not to have a society that is totally lawless, we have to do things like bring in a Parental Responsibility Act.

Mr. Acting Speaker, I can say in closing that there is one blessing that I have. I will never say that my children will not do, but I can tell you what my children will not, they will not call—they will not call mama—because mama has an attitude that says, *You do something wrong, you are responsible for your actions.*

And I think that if parents stand in the gap and take that attitude from the time our young people are little, and you see them . . . you know, when a child comes totally off the rails it does not happen from one day to the next. There are steps, there are little measures that you can look at and you can see that Johnny, that something is not quite right. And if you can set the standard and pull in the reins and not wait until the horse is gone before you try to bolt the stable door . . . if you notice and recognise and interact with your children you can pretty soon feel when something is not quite right. And that is the point of intervention.

We do not want to wait until we have to have a police officer coming knocking on your door, putting a billy club in your child's head, or a taser—more importantly—putting a taser on your child in order to

make sure that he is appropriately behaved. We do not want to have to do that.

Let us as parents look at our responsibility and take that responsibility seriously. And I can tell you that I can never say never. But I would certainly hope that no child or grandchild of mine would be subjected to the conditions of a Parental Responsibility Act because these are the terms and conditions under which a home ought to be structured in order that our young people do not go too far astray.

Boarding school is sobering. Worse yet, when you make a decision, you see a child coming off the rail and you make a decision to put that child in boot camp—boot camp is sobering. When a child says to you, *I can't even get ketchup on my hamburger.*

Why not Johnny?

Because I can't get ketchup until I get to level 2 because I am in this programme that is merit based.

And then you have to look at your child and say, *Well Johnny, you've got to get to level 2.* Because as tough as it is, it is a lot better for Johnny in the long run to say, *You earn your ketchup* as opposed to me saying, *Oh, you poor little baby let me bring you home and mollycoddle you*. Because that is where we go wrong.

And especially our single mothers with our young men. We just have this attitude that we have got to nurture them so well and protect them so well and whatever they do is all right. Well, it is not. It is not. Because when the court comes to you and says that Johnny has done $10,000 worth of damage to somebody's home, and you have got to pay for it, then the reality starts to hit. The rubber meets the road. The acid test is in full train. And we have to recognise that it is our responsibility as parents.

So I implore both the court systems, to get out there and to ensure that the maintenance monies that are not paid through the system . . . let's go after those delinquent parents. And to say that because of your delinquency there is additional pressure on the present parent—on the active parent in the situation—there is more pressure to make ends meet to provide and, therefore, the absenteeism must be a result—it must be a result.

And once the absenteeism becomes an issue then little Johnny is left to run rampant—to raise himself as best he can—or, worse yet, to allow the community to raise him from a negative perspective. And when we look there is absolutely nothing that we can do about it.

Parental responsibility starts the day one gives birth. However, it ought not to have to end with a legislative process in such a Chamber as ours and the headaches that have to be endured by the community by sending our kids into our court systems and then the knock on the door that says to a parent, *You have not paid the $10,000. Where is the money coming from? And when is it that you are going to be able make good on the actions of this little brat child who has somehow managed to become totally and completely out-of-control?*

We have to take control.

And I certainly would like to implore the Government to start looking at some of those formative programmes, to put the resources at the early stages so that we do not end up with little monsters coming out at the other end.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Are there any other speakers?

The Chair recognises the Opposition Leader, the Honourable K. Swan.

You have the floor.

Hon. Hubert (Kim) E. Swan: Yes, Mr. Acting Speaker, thank you very much for the opportunity to speak to the Parental Responsibility Act 2010.

Indeed, it has been said that a similar Bill was tabled in 1998. A colleague of mine, a former Member of this House, Mrs. Young, I recall very passionately felt very strongly about this. However, since that time we have had a Government that did not feel it necessary to embrace that legislation that actually came to the Order Paper.

The Government that we have today has been in governance for now going into a third decade, albeit 12 years of a third decade—the end part of the 90's into the 2000's—and now we are into a third decade of governance where a political entity that should understand, spoke very passionately in its formative years about social issues to the Government party that I represent now, of its day. And it is somewhat different as we look at it today.

That is where I would like to speak to this particular Act, Mr. Acting Speaker, because we find ourselves in a bit of a quandary. My concern, having been in the legislature for all of the time (albeit in another place) that the current Government has been at the helm of leadership, I have spoken in another place in particular to social issues on more than one occasion.

There is one particular area, when it came to budget time, that I remember recognising a programme which dealt with social issues on the front end. And this legislation deals with problems that society is facing on the back end. It is dealing with problems that are coming out as a result of. There are those that want to go back and trace its origins, but at some point in time we, in leadership positions, have to take personal responsibility—we are asking parents now in legislation to take responsibility.

Those of us in leadership positions, those of us responsible for the society, those of us who have been governing society, have to also take responsibility. There is no legislation for irresponsible leadership, but there should be. If it is necessary for us to put legislation in place for parents, there should be legislation in place for irresponsible leadership. Because there is

leadership by example that trickles down and allows other people to get a licence to act irresponsibly in our society, Mr. Acting Speaker.

It brings me back to some of the things that we should have been doing a long time ago. It is not good enough if a previous Government did not do it, if a Government who has been around now for bits of three decades has not been doing it, it is equally as wrong and it needs to be corrected. And sometimes the only way to correct matters like that is by the people themselves most affected—the people most neglected.

Mr. Acting Speaker, you would appreciate the impact that a programme such as Happy Valley Day Care Centre has on young people on the front end. It is by identifying at-risk young people—that is what this Order is driven at—young people who are growing up in vulnerable environments, whether or not it be in their home or in their community—and it identifies them.

That programme put in place by the former Government, and embraced by the current Government. The tragedy is—having spoken to this issue many times repeatedly in another place—is that 12 years on, parts of three decades later, there is still only one Happy Valley Day Care Centre.

Statistics would tell you, Mr. Acting Speaker, that the problem of identifying people at risk is well known. We heard some statistics trumped out. What we have seen in places like the Happy Valley Day Care Centre is that the budget goes up, the amount of staff remains constant, and the amount of people that get service remains constant (around 38), but the problems increase, the social problems have escalated, so we have not put programmes in place to reach the people. That is the problem we have with social issues.

And so, the horse is well out of the stable. Twelve years after legislation like this was identified what we really needed was some social programmes to touch those at risk and the vulnerable.

I hear people talking about single parents. Let me admit, as did the Honourable Member, Mr. Perinchief, whom I know and respect very well, that I, too, was raised in a single-parent home. I know my father. I was the oldest, like he, of a family. But the difference in today than it was yesterday is that you still have single-parent families but you do not have the society that we grew up in then to pick up the slack. That is a major problem.

We say it takes a village to raise a child, but the village has broken down. You know, there are many families that had single-parent situations but other family members came in and picked up the slack. Your neighbours were your brother's keeper and they used to pitch in. Your school teachers had the respect of families, so no one was running up there chastising them when they were correcting your child. And the churches were very much involved in their communities because the same people were actually teaching your children at school.

You know, we have had laws imposed upon us since Moses. And we break a number of those, and that is part of the problem that we have today. Some of the problems that we have are fundamental problems that go back to values. In a society that is living in the absence of values the society continues to erode away. And until we can face up as leaders [to the fact] that we need to fix some of the things that we are turning a blind eye to, all we are going to do is come with legislation that we are going to put on the back of brochures when we go around to people looking for their support.

But the day has come, Mr. Acting Speaker, the day has come, when those people are seeing who has really got their back. And do you know what, Mr. Acting Speaker? We are living in a society devoid of values where ill-equipped children are raising children, where you put in this legislation "a child over 21"—but I know many children . . . I know many people over 21 who are ill-equipped to even be handling a person under 15. And there are many children of 15 who are far more equipped and deal with some children than some people who are 28 and 29. And that is a real problem that we have.

We have got to get real. The situation that we have in this country is dire. And it hurts. It hurts! We had the opportunity . . . the Honourable Member that speaks for Culture and Social Rehabilitation (maybe I got it in the right order that time), Mrs. Jackson, and I, and a few other Members—Mr. Barritt was there—we spoke to seniors this week at the Seniors Appreciation. And, you know, Mr. Acting Speaker, I have to repeat one or two things I said there. I said, "Seniors, it would be nice to suggest that you fade off in the sunset, but we cannot afford it because your generation who may be old enough to be my parents are sitting on something that this country lacks. You are sitting on values that were passed on to you by people who are a hundred and have passed on to their great reward."

Values that you cannot put on this piece of paper, values that are contained in this piece of paper, Mr. Acting Speaker *[pounds a book on the table].* and I am not here to preach; I am here to say that we have got to go and find a way to tap into the values that made us who we are, notwithstanding the difficulties that we came up with, notwithstanding the disadvantages we came up with, and get back to them. We have got to start being our brother's keeper, we have got to do unto others as we would have them do unto us, and we have to forgive those who have trespassed against us.

And we have got to start leading by example. We have got to put away some of our pettiness, because some of the young people who have young children are following our example and it is not a good one.

I am here to tell you, Mr. Acting Speaker, yes you know, the day has come when people in legislative authority are looking to say, *I have got to do something*—so we come up with this. But we have got to get back to this *[pounds his chest]*—the heart. We have got to get back to what made us who we are as people. We have got to get back to our humanity, Mr. Acting Speaker.

I am not here to cast blame, I am here to say that we have to be leaders and we have got to start leading by example and we have got to start looking in the mirror and we have got to say, *Listen, little young child*—be it mine or be it someone else's in the community—*[you] need to know that I stand for something.* Because at the end of the day when the roll is called for me to go up yonder, I cannot take the dollars I have or the dollars I thought I had. The only thing I can leave behind is something good that maybe somebody might come behind me and say *Hey, you know, he was a good person; she was a good person. They gave me some good upbringing.*

That is what some of the older people in our society did for us. They would have loved to have left us a trust account. They would have loved to have left us some money. But you know what? They left us [something] far greater than that. But you know what? We did not realise it, and we did not pass it on sufficiently enough, and two generations back of us is a big problem.

Now what is it going to take? It is not going to take this. We will pass this today, yes. The problem will exist tomorrow. What we have got to do is sit down, take a chill pill, and realise that those of us who are 50 have some people who are 70, 75, 80, 90 that understand what values [are].

And I am going to pick on somebody that I know I can pick on. One of the most educated people in my community growing up was a lady named Dalton Tucker, highly educated, has probably more people sitting in this House today than any other teacher in Bermuda. Did you know that? Yes! She has more people.

But guess what? If you asked her, Honourable Member . . . pardon me for looking at some of her students because I am proud of them. Some of them have helped me along the way. But let me tell you, I know she owned houses because she owned one or two in Hog Bay Level when I was a little boy, so she was very enterprising. She saved her pennies. And I know she knew how to not spare the rod and spoil the child because I have been the recipient of some of those spanks.

The only person that could lick harder than her was Elsie Bassum [PHONETIC], who should have been a tennis pro, with the backhand that she had. How do I know? Tell me how I know.

[Laughter]

Hon. Hubert (Kim) E. Swan: But let me tell you, if you asked that lady when she was in her 40's or in her 90's—she is still around today to ask the question)—"What is the biggest influence of your life?" You do not have to wait for the answer, any one of her students would tell you, and all would say together, *God.*

And let me tell you, I have had people say to me, *Kim, you talk about God too much.* And, do you know what? That is their opinion. But let me tell you something: we in this community did not go wrong coming up on some good home-grown . . . and those of us that did not have money to raise us had principles. And you want to know how the community broke down? Go up White Hill today.

You know, as a young boy I used to rush up the hill up at White Hill to get there. And because Steven Lambert lived right next to the Army, he could always get to beat the drum first because he only had to jump over the fence and get there. One or two were the [INAUDIBLE]. You know, behind the shield they say. But, guess what, in White Hill today Salvation Army is not there, but there is still around Parson's Road because people have had to scale back.

So what happens? Companies expand, the churches that work in the community have to cut back. So where the Army used to be in Cedar Hill and White Hill, they can only afford to be in Somerset and down at St. George's where they used to be. Yes, they get replaced by other churches. But the point I am trying to make is that I am just picking on one organisation that does reach people; that does pick up the slack. And what we have got to do is we have got to function on the front end.

This is back-end legislation. One got it . . . As we call it in golf, we had a putter, you know you are always looking for a new . . . we had a putter that used to go like that. The putters used to be faced like that. We call it the back-ass wood putter—not to pick on that. That putter is backwards! But it worked for some because sometimes you have got to turn it upside down.

But I am telling you—telling us—*Legislators, let's get to the front-end of the problems! Let's identify* . . . rather than charge someone $3,000 . . . look, if they had $3,000 they might pay the sixth bill instead of leaving the other ten to try to figure out. You know, you bring a gambling bill to the House, well people are gambling there every week. They have got 15 bills and they have got money for 5 and they are trying to . . . they are playing Russian roulette. They roll up their hands and say, *Which five get paid this month?*

Tell me how I know: more than painted Bermudians are living that reality. And the worse the economy gets, the worse it gets for those who are at the bottom end of the rung. It is reality. And guess what? It was a reality before the economy went sour because there were more than 30 per cent of Bermudians in the greatest economy in the world poor or near poor. Our people—Bermudian people—suffering

in this economy when it was at its best. Now they have been joined by people who have lost their jobs. Guess who is going to be the first ones out of that? All the educated people finding themselves suffering in this economy.

We have got to wrap our minds around the front end of this particular Parental Responsibility Act. That is necessary because of the dire circumstances this country is in. And someone has got to put something in place to save us from our own situations within our communities. But in order for us to stem the tide, in a fundamental way we have got to go after front-end problems, identify who is vulnerable. If football and cricket and swimming and golf and all these type of things, and the arts and violin and painting and all these other things are going to reach some children, we have got to find the resources to involve them.

We cannot just leave it just for all the parents that are doing right to make sure they showed up, we have got to make sure that it reaches down and touches some little guys like me. And I pick on me because that is what an unlikely candidate for a great sport like golf was. There are other young people like that out in this community. That is what we have got to do.

We have got to tap into the resources of people who are much older who have values. Because, do you know what? You can learn everything you want in life at a young age. I call it the Tiger Woods effect. You can learn how. You can tap into sports psychology; you can tap into all the attributes that make you a fine. But you cannot buy wisdom. You cannot buy it, and you cannot buy common sense either. Some of those things you have got learn the good old-fashioned way. And if you have got a country that is devoid of it, you have got to tap into the people that have got it and trust them. Because we have been on the get rich, get everything-too-quick, mindset in this country.

And that, Mr. Acting Speaker, is why there is support for the Bill but I think, in all honesty, there is a parallel between a Government that brought a Bill like this at the end of its tenure and a Government that is bringing it today.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Do we have any further speakers?

The Chair recognises the Honourable Member, Mrs. P. Cox, Deputy Premier.

You have the floor.

Hon. Paula A. Cox: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, you want to ask the question why are we here today? Why now? And what next?

And I think, Mr. Acting Speaker, that, notwithstanding all the weeping and wailing and pounding of breast and clashing cymbals, I think we are here because Bermuda is at a different place; a place we are not used to seeing Bermuda be at. And while there are some who want to talk and reap up the good old days. Notwithstanding that things have changed, and we do not like everything that has changed, at the same time we have to also remember that the good old days . . . who were they good for?

Today we are at a place in time where we have some of our young people who we feel are not performing at the level that they should be performing, whether we are talking about education, whether we are talking about social mores, whether we are talking about values and behaviour. And I think what we are here today to do and to talk about—and we are going to be talking about it in a number of different ways even on other matters that come after this—is how can we find a way to connect the unconnected? That is what we are here to talk about, Mr. Acting Speaker.

And I think that there is a saying or a principle in law. It is what we all learned as lawyers, in terms of one of the first cases we learned in terms of *Donoghue v. Stevenson.* If somebody goes to a bar, buys something for a young lady (it is a can of ginger beer poured into glass). The ginger beer happens to have a snail in it. The young lady is traumatised by it, but she was not the one who had the contract because she did not buy the ginger beer. So this is how you had your law of negligence and tort come about.

But what was the beautiful thing about that judgment is that it brought in a lot of Biblical issues and it said, *To whom is the duty of care owed?* To whom is the duty of care owed? And they said, *The duty of care owed is to my neighbour. And my neighbour is anybody who could be affected by the actions.*

And that is what we have now, Mr. Acting Speaker, concentric circles and rippling effects. And what we are focusing on, Mr. Acting Speaker, is the fact that we are starting with the building block. And the building block in any community is the family. Because if you take care of the issues of the family you will deal with the issues of those who are vulnerable and affected in the community.

And, Mr. Acting Speaker, nobody—nobody—who has an ounce of common sense in their head would believe, would posit or would assert that this Bill is the be-all and end-all. Nobody would say that. It is part of the rubric of remedies. But it is also saying that we are going to put to the forefront the issue of accountability. And accountability, answerability, responsibility, those are the cornerstones.

And it is also taking the position that this is not something that you look at in isolation. It would be nice to pretend that you are going to put on just a political mask and pretend that this is what the Government of this country is dealing with, and the only thing that we are dealing with. That would be to ignore what has been done, what is being done, whether in terms

of Mirrors, whether dealing with the issues of child day care and helping to have family friendly policies.

I recall just last week being at the graduation for a number of various adult education programmes, in terms of GED. I recall being just last week at the graduation of those who went through the construction incubator initiative as part of the EEZ. Those are all part of the rubric of policy programmes to try and find a way to help those who need help. That is what a social agenda is, and that is what saying that you want the have-nots to have more.

So, Mr. Acting Speaker, as we look at the Parental Responsibility Act, as the Honourable Minister in this place who is going to pilot this Act, and as he talks about the Child Safety, the Parental Orders . . . and it does correlate nicely with that first Bill that I brought as Education Minister on Parental Responsibility. But you do have to have the testicular fortitude when you are provided with the legislative remedies that those who are on the front line of effecting and implementing do not shy away. And that is where we are now at, Mr. Acting Speaker, that when we have legislation it is for us to see to it that those throughout the system do not shy away. Because, if not, we are wasting our time and we are wasting the people's time.

Mr. Acting Speaker, it may be a sad and sobering occasion that we are at this place at this point in time. However, I still remember what I said in another debate today. I am not an optimist, I am not a pessimist, but I am a pragmatist, and I understand that you do the things that are necessary to effect the necessary social changes you need to see happen in this country.

Thank you, sir.

The Acting Speaker: Are there any other speakers?

The Chair recognises the Minister responsible.

Minister Scott, you have the floor.

Hon. Michael J. Scott: Thank you, Mr. Acting Speaker.

I wish to thank all Honourable Members who have been contributing to the assessment of where we are in our country as it relates to this item today, the Parental Responsibilities Act—a new response and reaction by the Government in circumstances and conditions that we find ourselves in.

Mr. Acting Speaker, if I were to have some take-aways from the debate as I have listened to it today, and for which I thank all Honourable Members from across the aisle and on the side of the Government Benches, I do take note of the clear focus of the deliverables and the delivery capacity that we have to focus on. I have taken note, as I am sure all of us have, of the recognised helping services that have been promulgated by this Government since 1998, and some of the admitted shortcomings and failures of those programmes.

But you know, Mr. Acting Speaker, in 1977 when Lord David Pitt made poignant and important recommendations to the country, and twenty years of the United Bermuda Party's response to those recommendations . . . they were . . . and I recall, and I have read, and I know the legislation that fell from the United Bermuda Party as a direct consequence of David Pitt's urgent recommendations to us. By the time . . . 20 years beyond 1977 into 1997 we were at the cusp of the United Bermuda Party leaving the scene and a Progressive Labour Party coming in to the scene.

Our response was [that] we felt even more vigorous, and through the second Premier—certainly started by Dame Jennifer Smith, as she then was Party Leader and Premier—started giving real form in the social agenda by the Premier Alex Scott. That was a continued effort at doing what amounted to ATI and amounted to the Drug Court and these were our efforts. They were sincere.

But, make no mistake, when the Honourable Opposition Leader talks about the front-end and back-end remedies, we were faced [with], and dealt a deck of cards in a hand that was very much a back-end situation from 1977. And the Social Agenda was a response to it. As a Government we had the responsibility then, and we have the responsibility today to continue to respond.

As the case is new, so must we act anew. The fact that we did not act in 1998 when we came into Government with the Parental Responsibilities Act is nothing that I am either ashamed of, nor do I make an apology about. We responded with the Social Agenda. And we were having to deal with back-end issues from 1977. And so, on we go, and on we must continue.

I do take away the fact that the deliverology is important. Having in place the civil servants within the helping services is key. And I heard you, Mr. Acting Speaker, make that point. Many others made the point as well. That is key. The Minister of Culture and Social Rehabilitation and I were looking at a budget book of 1997 and just comparing the budget allocations for family services. They have actually doubled. It is remarkable that, with the doubling of allocation, we still are having these problems.

The case today is dire, when the people that this Act is directed at—the young people to which this Act is directed at—are actually arming themselves and hurting themselves and killing each other. We have no choice but to act and react. I do not mind us saying that we are reacting. But act we must. The case is new and so we must act anew.

We take away from the debate all of the obvious observations, recommendations and urgings. And we will do our best to ensure that we suppress, cor-

rect and slow down this process and the direction it is going in.

And so, Mr. Acting Speaker, with my thanks to my colleagues on the Government Benches, and my colleagues on the benches opposite—both parties—I move that the Bill be committed.

The Acting Speaker: Thank you, Minister.

The Chair calls on the Honourable Member, John Barritt, to take the Chair in committee.

House in Committee at 8:28 pm

[Mr. John Barritt, Chairman]

COMMITTEE ON BILL

PARENTAL RESPONSIBILITIES ACT 2010

The Chairman: We are now in a Committee of the whole House, and we are dealing with the Bill, The Parental Responsibility Act, 2010, and we now speak to the individual clauses.

I now turn to the Minister responsible, the Honourable and Learned Michael Scott.

Minister?

Hon. Michael J. Scott: Thank you, Mr. Chairman.

Mr. Chairman, the Bill for consideration is the Parental Responsibilities Act, 2010, as we have been most aware. And Part 1, clause 1—

The Chairman: Sorry, Minister. Are you going to move all clauses at once? Or are you going to break it up. What is your—

Hon. Michael J. Scott: I should break it up, Mr. Chairman, because there are twenty-odd clauses. So may I move for leave to move clauses 1 through 10? One through five? It depends—

The Chairman: I am looking at the other side—

Hon. Michael J. Scott: One through 11.

The Chairman: The Minister is proposing to do clauses 1 to 11, that is Part 1 of the Act. Is that...that is agreeable?

Hon. Michael J. Scott: That is how the structure of the Bill looks. And may I foreshadow, Mr. Chairman, that there will be amendments made at clauses 3 and 8? So, during the course of this first—

The Chairman: There are going to be amendments in clause 3 and clause 8. And, of course, that will be in the first part of the Act, so if I could have copies . . . and I am now given copies.

Do Members opposite have copies?

[Inaudible comments]

The Chairman: They are coming out now? Okay.

Hon. Michael J. Scott: So, with your leave, Mr. Chairman, clause 1 is the short title.

Clause 2 introduces the interpretation section of the Bill, Mr. Chairman—

The Chairman: Yes.

Hon. Michael J. Scott: —making provision for the definition of response of child and parent.

Clause 3 of the Bill enables the police to apply for an anti-social behaviour order for any person aged 10 or over who has acted in a manner likely to cause harassment, alarm or distress to one or more persons who are not members of his household. The order prohibits that child from doing anything described in the order.

Mr. Chairman, this is the first amendment.

The Chairman: All right, do all Members have copies of the amendment?

Some Hon. Members: No.

The Chairman: All right. They are being handed out, Minister, as you speak. You are going to propose the amendments now, are you not?

Hon. Michael J. Scott: Yes.

The Chairman: So, we discuss the amended rather than—

Hon. Michael J. Scott: We are looking at the first amendment to—

The Chairman: Clause 3?

Hon. Michael J. Scott: —clause 3 to subsection (7) of clause 3. And we seek to delete the words right at the very end of subsection (7), the words “the consent of”, and substitute “consulting”.

The Chairman: Do Members have that? It is in subsection (7) it says, it will now read: “A parent, the police, the responsible officer or the child may apply to court seeking to vary or discharge the anti-social behaviour order by a further order, except that no further order discharging the order shall be made without consulting the responsible officer.”

Members have that? All right.

[Inaudible interjections]

The Chairman: The words "the consent of" are dropped from subsection (7), and for which is substituted the word "consulting" so—

Hon. Michael J. Scott: You have read it well and I—

The Chairman: —now without "consulting" the responsible officer as opposed to "without the consent of."

Hon. Michael J. Scott: Thank you, Mr. Chairman.

The Chairman: All right, Minister, if you would like to speak to that or would you like to carry on with all the other?

Hon. Michael J. Scott: No, no, there are just the two other substantive amendments within clause 3. And may I pick up the next one in subsection (8)—

The Chairman: Yes.

Hon. Michael J. Scott: —of that same clause by deleting the words "the statutory maximum".

The Chairman: Yes. And substituting the figure $3,000.

Hon. Michael J. Scott: Yes.

The Chairman: So Members that will now read, Minister if you will allow me—

Hon. Michael J. Scott: Yes.

The Chairman: Subsection (8): "If, without reasonable excuse, a child does anything which he is prohibited from doing by an anti-social behaviour order, he shall be liable on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding $3,000 or both."

Are Members with me?

Some Hon. Members: Hmm-hmm.

The Chairman: Yes, Minister.

Hon. Michael J. Scott: Thank you, Mr. Chairman.

The Chairman: And now you have got a new subsection (9).

Hon. Michael J. Scott: Subsection (9), yes.

The Chairman: Which reads?

Hon. Michael J. Scott: Which reads, "A magistrate passing a sentence under subsection (8), shall take sections 6, 16 and 43 of the Young Offenders Act 1950 into consideration."

The Chairman: Do Members see that?

Yes. Members see that.

Would you like to speak to that particular amendment?

Hon. Michael J. Scott: Well, it addresses the concern raised by the Honourable and Learned Member, Mr. Crockwell, who took the point about the fettering of a magistrate's powers and this now addresses that very properly raised issue within the Bill.

The Chairman: As I understood it, Minister, the Young Offenders Act says that no child under the age of 16 may be imprisoned. And now with the reference to section [6] it makes it clear—

Hon. Michael J. Scott: Thank you.

The Chairman: —that the only people subject to imprisonment could be those between 16 and 18. Is that correct?

Hon. Michael J. Scott: There you have it.

The Chairman: I am not sure what the references to 16 and 43 are, but perhaps they buttress that?

Hon. Michael J. Scott: Let me pick it up with 16. I have a copy of the [Act]. [Section] 16 deals with the "Powers on conviction" and [section] 43—deals with "Corrective training", is that not right?

Thank you, all right. I am grateful.

The Chairman: All right.

Members, of course, will be able to speak to that when we get to the end of the—

Hon. Michael J. Scott: All right, shall I carry on through my 11?

The Chairman: You proposed to go right through 11. We can do that or, I am happy, if Members are, to stop now if we want to speak to this now—

Hon. Michael J. Scott: You want to speak now?

The Chairman: Minister, I am not . . . it is entirely up to you.

Hon. Michael J. Scott: I will keep going.

The Chairman: Okay.

Hon. Michael J. Scott: And so, thank you for accommodating us on the clause 3 amendments.

Now clause 4 of the Bill provides for an appeal of the Bill against anti-social behaviour orders. Mr. Chairman, those appeals would lie to the Supreme Court.

Clause 5 of the Bill gives the court the power to make a parenting order requiring a parent or guardian of a child found to be involved in anti-social behaviour, or a youth crime offender, to attend counselling or guidance sessions and comply with the specified requirements. The order may also be applied to parents who have failed to secure their child's regular attendance at school in breach of the Education Act. So, may I draw the Honourable Member's, Dr. Gibbons', attention to clause 5?

Clause 6 of the Bill provides for an appeal against parenting order, which is the balance that is added after we have the appeal provision in clause 4.

Clause 7 of the Bill enables the court to make a child safety order in respect of a child under 10 who is at risk of becoming involved in crime or involved in anti-social behaviour, placing the child under the supervision of a responsible officer and requiring the child to comply with arrangements aimed at ensuring that he or she receives the appropriate care, protection and support and is subject to proper control.

Clause 8 of the Bill, Mr. Chairman, requires that the court take into account information about the family circumstances of the child and explains the effect and consequences of the child safety order to the parent in ordinary and plain language before making the order, and allows the court to discharge or vary the order in certain circumstances.

Clause 9 of the Bill provides for an appeal against the child safety—

The Chairman: There is something . . . sorry, Minister. There is something quite not right there.

You say it is clause 9 that actually provides for the power to review an order and explain in ordinary language . . . in clause 10. You are one behind or one ahead, I am not sure.

Hon. Michael J. Scott: I am sorry. I have an amendment on clause 8.

The Chairman: Ah, yes.

Hon. Michael J. Scott: I have an amendment on clause 8.

[Inaudible interjections]

The Chairman: No, no.

Hon. Michael J. Scott: Can we go to clause 8, Mr. Chairman?

The Chairman: You are doing clause 5. And you were going through the various—

Hon. Michael J. Scott: I have reached clause 9.
In fact, I rushed ahead. I have an amendment to clause 8.

The Chairman: All right.
But which clause are we on now? Clause 5?

Hon. Michael J. Scott: Clause 8.

The Chairman: We are all the way up to 8?

Hon. Michael J. Scott: Yes, sir.

The Chairman: Well, I do beg your pardon, then.

Hon. Michael J. Scott: My apologies for rushing past 8 without dealing with the amendment thereto.

So, if I could refer the House to clause 8.

The Chairman: 8 (5)—

Hon. Michael J. Scott: Clause 8 involves an amendment to clause 8(5)(a)(ii) of the Bill. It is more or less a correction to language. This is to be amended by deleting the word "protection" and substituting the word "protective".

The Chairman: Do Members have that?

They have it front of them. Do they understand that?

Yes, that is fine, Minister.

Hon. Michael J. Scott: Thank you.

The Chairman: So the Minister is now proposing that clause as amended.

Minister.

Hon. Michael J. Scott: Thank you.

Clause 9 of the Bill provides for an appeal against the child safety order.

Clause 10 of the Bill enables the Minister to make a child curfew scheme under which a curfew notice may be given, banning children of specified ages from being in a public place during specified hours unless they are under the control of a responsible person who is aged 21 or over the age of 21.

So, I think we would like to see them in the care and control of persons who are seniors. We have chosen the age of 81 *[sic]* or over.

Clause 11 of the Bill requires a police officer to inform the Minister when he believes a child is contravening a curfew notice and enables him to return the child to his home or to another safe place. So, two options there.

And I pause there, having reached the first 11 clauses.

The Chairman: Thank you, Minister.

The Minister has moved clauses1 through 11, as amended. That is what we have before the House now—the clauses as amended.

Do any other Honourable Members wish to speak to clauses 1 through 11, as amended?

The Chair recognises the Honourable Member from Pembroke South, the Honourable Louise Jackson.

Mrs. Jackson, you have the floor.

Mrs. Louise A. Jackson: Thank you, I am still concerned, although it has been explained to me by a lawyer—several lawyers. And I am talking about the amendment, which is clause 3 subsection (8).

It reads, "If, without reasonable excuse, a child does anything which he is prohibited from doing by an anti-social behaviour order, he shall be liable on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding [well now it is] $3,000 or both."

And when I first read this I wrote in the margin, "a child of 10 in jail." I mean that is what I get out of it.

Now, I understand from the Honourable Member, Shawn Crockwell, that this was an easier way of doing it and perhaps he could explain it, I guess, to the public—or someone could—because I as a member of the public . . . well, what I am saying is, it says there "a period of imprisonment", which leads anybody to think that is jail or some other place of confinement for a child of 10 through 17. Well, I understand that the Act reads that would be 10 to 16, is it? Ten to 16. But how would I—you know, Joe Blow—know this? If I am reading this, it is what I am reading and with the amendment it still does not make it any better.

It still sounds . . . well; subsection (9) still does not mean anything to me because it is saying take section 6, 16 and 43 of the Young Offenders Act 1950. Well, again, it seems to me that a person who does not understand has no access to the Young Offenders Act—

[Inaudible interjection]

Mrs. Louise A. Jackson: —the judge, of course, would know this.

All I am trying to say is why would you have it in here in the first place? Isn't it easier to just not have this, what I call, very objectionable—term "imprisonment" or a term *la, da, da, da, da*? The general public will see that . . . in fact, there have been objections to it on television already tonight by other people.

The Chairman: Thank you, Mrs. Jackson.

Any other Honourable Members wish to speak to that?

The Chair recognises the Honourable and Learned Mr. Crockwell.

Mr. Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Thank you, the other Honourable and Learned Member had to sit down. Thank you, Mr. Chairman.

Mr. Chairman, I would like to say—

The Chairman: You rose first; people did not see that but . . .

Mr. Shawn G. Crockwell: Yes.

I would like to say thank you to the Government for taking on the amendments.

First I would like to deal with the amendment in clause 3 of the Bill.

In the House, Mr. Chairman, I did raise concerns about the potential in clause 3 subsection (7) of there being a fettering of the judicial discretion or impeding judicial discretion by making it mandatory that an order must be made . . . well, cannot be made without the consent of the responsible officer.

And now, with the amendment it is clear that the magistrate will make orders consulting the responsible officer and, therefore, everyone will be working together and the magistrate will still have the independent authority to make the order that he or she thinks is appropriate. And so I think that the Government has gotten that right.

Now with the issue that the Honourable Member, Mrs. Jackson, just raised, that was also raised in the House as there was a conflict of laws with clause 3 (8) in that the punitive measure if a child breached an anti-social order was that he or she could be liable on summary conviction to imprisonment. However, that conflicted with the Young Offenders Act section 6 (1), which says that there is a restriction on imprisonment for a child. And a child is defined in that Act as anyone between the ages of 10 . . . well, to the age of 16. Anyone under 16 is defined as a child.

So, now the Government has inserted subsection (9) which says that "A magistrate passing a sentence under subsection (8), shall take sections 6 . . . of the Young Offenders Act 1950 into consideration" which would preclude a magistrate from incarcerating anyone under 16 years. In effect, that clause that was concerning to individuals or anyone else who may have spoken to the press today, will not have the effect that we thought that it would have. And anyone under the age of 16 . . . now there is still a restriction in place that they cannot be incarcerated.

Again, I would like to commend the Government for making that amendment. I think this is not the first time, Mr. Chairman, when dealing with legislation under the Attorney General that we have seen that she has been amenable to make such amendments that improved the legislation before the House. And I think that she deserves to be commended for that.

Mr. Chairman—

The Chairman: We take it you are happy then.

Mr. Shawn G. Crockwell: Pardon me?

The Chairman: You are happy?

Mr. Shawn G. Crockwell: Yes, I certainly am happy with the amendments, Mr. Chairman.

Going forward now, I would only like to make comment on . . . well, again, under clause 5 (13) dealing with the punishment of a parent who breaches the conditions of a parenting order.

You will see that, "If while a parenting order is in force the parent fails to comply with any requirement included in the order, or specified in directions given by the responsible officer, he is liable on summary conviction, to a fine not exceeding $3,000 and may in addition, be asked to undergo counselling."

Certainly, the last portion of that we support. We believe that that probably should have come first. The counselling component should have been made mandatory rather than "may in addition be". We think counselling should be the paramount remedy in this case, but we are glad to see it there in any event.

But, again, we just want to stress that those who are enforcing and constructing these orders, and at the end of the day when parents do find themselves before the court in breach, we appreciate that there has to be consequences. Otherwise, it makes the order really ineffective. But we are just concerned that, as we have heard in the House raised by many people, that the individuals who will find themselves in these situations will be individuals probably at the lower end of the economic spectrum. And so we would not want the individual and the family to find themselves at a greater disadvantage.

So, certainly in the enforcement of this, we hope that there will be prudent discretion in enforcement because we certainly want to promote the enhancement and the amelioration of families.

And, finally, Mr. Chairman, there is just a question for the Minister in clause 11, talking about contravention of a child curfew scheme. We appreciate the efficacy of the Minister having the power to impose a child curfew scheme. We definitely think that it is something that could be useful under certain circumstances.

What I do not understand is what happens after a child, who may find themselves in an area where they should not be—whether it was [inadvertent] or if it was intentional—but we see that the "The police officer shall, as soon as practicable, inform the Minister or a person designated by the Minister, that the child has contravened the ban."

And so, what then would happen? has to be the question. What would the Minister's discretion or authority be? What could the Minister do? Are there any punitive options that could be available? So, we do see the curfew; but we do not see what would happen in the event that individuals certainly impinge against that curfew. So, if the Honourable Minister could elucidate on that, I would be grateful.

Thank you, Mr. Chairman.

The Chairman: You are welcome.

The Chair now recognises the Honourable and Learned Member, Mr. T. Moniz.

Mr. Moniz, you have the floor.

Hon. Trevor G. Moniz: Thank you, Mr. Chairman.

The question I have here for the Minister is with respect to the compliance of the legislation in front of us. In particular that same clause 3 (8) for the imprisonment of a child, with respect to the Bermuda Constitution under clause 5 (1) (f). And I will just read that out, but it is with respect to protection from arbitrary arrest or detention.

Clause 5 (1) states, "No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases:" And (f) states, "(f) in the case of a person who has not attained the age of twenty-one years, under the order of a court or with the consent of his parent or guardian, for the purpose of his education or welfare."

So, basically dealing with the deprivation of personal liberty of a minor for his educational welfare.

Now, I know we have made the amendment in clause 3 (9), which refers to the provisions of the Young Offenders Act with respect to offenders under the age of 16. And I am presuming—and maybe the Minister can confirm this or clarify it with respect to offenders between the ages of 16 and 21—that there must be some provision for their retention and custody in (I take it) the Senior Training School or the facility that is at Ferry Reach. I just wonder if the Minister could clarify that.

One further question . . . I do not know to what extent the details of this has been fleshed out, but the Honourable and Learned Member who spoke before me, Mr. Crockwell, mentioned to deal with the counselling issue with respect to the parents and perhaps also the child. What provisions have been made for such counselling arrangements and where are they to be provided from? Are they expected to be coming out of Child and Family Services, or are they coming from some other department of Government?

[Inaudible interjections]

Hon. Trevor G. Moniz: Where the pro-counselling services are expected to be provisioned from.

Are they coming from Child and Family Services? [Are they] coming out of Social Services? Or is it going to be a sort of multi-departmental programme? For example, the problem might be with

drugs, it might be psychological . . . there are all sorts of issues that might come up.

So, I just want to understand what arrangements have been made for providing the counselling services or whether that has not been sorted out yet.

I am obliged.

The Chairman: You are welcome, Mr. Moniz.

The Chair now recognises the Honourable Member for Paget West, Mrs. P. Gordon-Pamplin.

Mrs. Gordon-Pamplin, you have the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Chairman.

Mr. Chairman, my question for the Minister is with respect to clause 5 (2) which is the parenting act section of the Bill.

And it says that, "If . . . the court is satisfied that the relevant condition in subsection (6) is fulfilled, it may make an order (a "parenting order") in respect of a person who is a parent."

Now, presupposing that there are two parents active, the question then begs, Which of the parents is subjected to this parenting order? Are we speaking to both parents? Are we speaking to one or the other parent? In whatever instance, which of the parents?

If you have two parents together, it may be a relatively simply process to be able to get to the heart of. But if you have got alienated parents, which parent? Is it just the custodial parent who is being involved here? Or is it either of the parents?

Because if you go on that same clause down to subsection (9), "Before making a parenting order, the court shall– (a) obtain and consider information about *the* [emphasis added] person's social circumstances".

The person's social circumstances would suggest that this is targeting a parent—one or the other. Are we discussing here only one parent being responsible? Are we discussing all the parents being responsible whether biological or step-parents? Who is this targeted towards? I just wondered which parent.

Similarly, if we go down to clause 5 (9) (b) it says you are going to "explain to the parent in ordinary language" and then again in clause 8 (1) (b) "explain to the parent of the child in ordinary language". I think we have to be a little bit more specific. Especially we have situations where on the one hand you may have single parenting situations, on the other hand you may have a combined parenting arrangement, or a step-parenting and four parent situation, where you have a step-mom and dad and a step-dad and a mom. This is not very clear as to who is going to be the subject of the order and who is going to be attending these parenting classes and who is going to be . . . whose social circumstances are going to be investigated by the Director of Child and Family Services. The legislation does not make it clear. I wonder if the Minister can help us with that.

Thank you.

The Chairman: The Chair recognises the Honourable and Learned Mr. T. Moniz.

Mr. Moniz, you have the floor.

Hon. Trevor G. Moniz: I am obliged, Mr. Chairman.

I am riding on that same wave that my friend is addressing from a slightly different angle with respect to parents and step-parents.

As you know in these situations you get . . . parents normally have custody of a child. If you look at the Matrimonial Causes Act you have custody and care and control. So you might be in a situation where the two parents were married, are divorced; the two parents may have custody, but one parent may have care and control, so the child may live with one natural parent one step-parent but the other natural parent may also have custody. So, it can get very complicated and this Act does not reflect that complication.

But, of course, there are also situations, because it is such an organic thing within families, you can have situations where at least for short term a child may be in the temporary care and control of a person who does not have permanent care and control of them.

An Hon. Member: As they say, *His, hers and ours.*

Hon. Trevor G. Moniz: Yes.

So I think that that could be an area of complication in court. And I think it will be a valid area, because in some cases, those may be exactly the children who are likely to cause trouble.

You get a situation where, if a child is born out of wedlock, the child is—under law—in the custody of the mother. But should the child be in the *ad hoc* control of the father, but without the blessing of any form of court order, then is the order going to be made against the father?

So I just see that this is going to be tested at some stage. I do not know that there is an easy way to legislate any such organic or elastic situation. I do not know if the Minister has any idea as to where that may be going. But there are complications there.

The Chairman: The Chair recognises the Honourable Member from Paget West, Mrs. P. Gordon-Pamplin.

Mrs. Gordon-Pamplin, you have the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Chairman.

Mr. Chairman, I apologise I did have one further question and that was on page 8, Child curfew scheme, clause 10 (2) (b) with respect to the curfew, basically saying, This subsection applies to a ban on children of specified ages being in a public place

within a specified area." And (b) gives the conditions of that person under whose control this young person could be as being "a responsible person aged 21 or over."

And with the age of majority being 18, I am just curious as to why we are going on to 21. Because you might find that, you know, you have got a married person at the age of 18 in charge of this person. That person ought not to be deemed *not* a responsible person; but they have not attained the age of 21. And I think that this places an onerous task on an actual situation. I think that this needs to be looked at and addressed.

Thank you.

The Chairman: There are no further questions Minister. This would be a good point for you to reply to those that are outstanding.

The Chair recognises the Honourable and Learned Mr. Scott.

Minister Scott?

Hon. Michael J. Scott: Upstanding and dealing with the outstanding matters.

May I deal with the second to last ones first, because it is a more interesting question, raising the query under [clause] 5(2), which parent? Given the possibilities, as raised by the Honourable and Learned Members Trevor Moniz, who has care and control and raised by Mrs. Gordon-Pamplin if there are two parents.

The clearest of approaches of a court, or a magistrate or a judge of the Supreme Court, will be the paramount concern—the welfare of the child. And so there will be an inquiry and the parent, as my colleague the Minister of Culture and Social Rehabilitation points out, the parent—it is like the judgment of Solomon. The parent who is in court and taking an interest in these matters is the most likely person that the court is going to attach the order to and the liability under the order.

But the inquiry will go even a little deeper than that. When it comes to children, the paramount issue, the paramount concern is the welfare of the child. That is the test and that is the guide. And so they will inquire as to which of the parents, if there are multiple parents, or a guardian or an uncle or an aunt that has the best ability to discharge the paramount test, i.e., the welfare of the child. And that parent will become the choice of any reasonable judge.

And it doesn't make sense to Ms. Gordon-Pamplin, but that would be the . . . you are not going to have a court engaging in a squabble over competing parents or guardians or interests, because the squabble can be reduced to the absence of a squabble by inquiring as to who is the person, based on the interest of the child and the welfare of the child, to have responsibility for discharging the order.

That is the answer that I—

The Chairman: Minister, I don't know if this is helpful or not, but although it is in the Act in the singular, the definition section says that the parent includes—well, I'll read it—multiple possibilities.

Hon. Michael J. Scott: That's all right.

The Chairman: "[T]he father, mother, step-parent, guardian and custodial parent. I think you could sweep them all in—

An Hon. Member: I think so too.

The Chairman: —If appropriate.

Hon. Michael J. Scott: Yeah, yeah. You would expect the Act, and you would want the Act to not exclude an potential candidate for parenting. And that is what that definition does. That is number two.

The question just raised by Ms. Gordon-Pamplin on [clause] 8 on the age 21 . . . yes, the age of majority has been raised as being a disparity for the exclusion of that age of 18.

The policy behind this has been to go for the higher age because of the development in the community of the participants in dreadful behaviours being at this age of majority, precisely on this point of 18. It takes us to the grey candidacy of having even our seniors really being the better person. The older the better is the point I am trying to make. The older the better.

That was Mrs. Gordon-Pamplin. I think now that was Honourable Member, Mr. Barritt—no, you are in the Chair.

The Chairman: I am in the Chair.

[Inaudible interjections]

Hon. Michael J. Scott: There were some questions raised and I will see if I can pick them up at clause 10, I think they were at.

The Chairman: Mr. Moniz had one that I recall. It was the constitutional . . . okay; I will let you deal with that.

Hon. Michael J. Scott: The constitutional point, as I recall from my memory . . . yes, in terms of the services that are available, given the Constitution at section 6(f) . . . under the Young Offender's Act, we are all aware that there is the correctional—I am sorry, the, the—

An Hon. Member: Corrective training?

Hon. Michael J. Scott: Corrective training, where these welfare orders, dealing with persons of this age, this will be the facility that is the holding area.

The Chairman: So, to be clear then, when it says "imprisonment," the imprisonment means that they will be going into corrective training.

Hon. Michael J. Scott: Yes.

The Chairman: Because that meets—

Hon. Michael J. Scott: Corrective facilities.

The Chairman: Because that meets the requirements of the Constitution, which is—

Hon. Michael J. Scott: Would not be breached.

The Chairman: —no imprisonment, except for education and welfare.

Hon. Michael J. Scott: And, please, I am referred by the Learned Attorney General's provision, [section] 6(2) of the Young Offender's Act. So whoever asked that question, may I refer the—

An Hon. Member: *[Inaudible interjection]*

The Chairman: All right.

Well, it is being suggested, Minister, that perhaps we read section 6(2) of the Young Offender's Act because this is an important point, I think.

Hon. Michael J. Scott: I have it here.

The Chairman: No, no. That is fine.

Hon. Michael J. Scott: You are all right?

The Chairman: There are members in the Chamber, in the Gallery, as there usually are to assist the Minister. And it has been suggested that in order to illuminate and to understand this point that it would be useful to read subsection (2) of section 6 of the Young Offender's Act.

Hon. Michael J. Scott: Yes, Sir. There you have it.

The Chairman: And I am giving you the latitude to do that. I am doing more than that; I am encouraging you to read it.

Hon. Michael J. Scott: Section 6(2) of the Young Offender's Act is as follows, Mr. Chairman, and for Members who raised the question:

"No court shall impose imprisonment on a person who (though not a child) is under the age of eighteen years unless the court is of the opinion that no other way of dealing with him is appropriate; and for the purpose of determining whether any other way of dealing with any such person is appropriate the court shall obtain information relevant to the circumstances of the offence of which he has been convicted and such information as can with reasonable expedition be made available to the court relevant to his character, environment and antecedents and to his mental and physical condition, and the court shall take into account any information so obtained and any other information before the court which is relevant to the matters aforesaid."

So, the rubric.

The Chairman: [Section] 6.

In any event, Members can still speak to that if they wish. That, you recall, is now the amended, and I presume the purpose of the amendment to subsection (8) of clause 3, with respect to the possibility of imprisonment and who is eligible and who is not.

An Hon. Member: Subsection (9).

The Chairman: It is subsection (9), I beg your pardon. Subsection (9) amends or modifies subsection (8). But those Honourable Members who raised it can still speak to it if they wish.

Hon. Michael J. Scott: And I will invite Members to let me know whether I have fielded all questions.

Was there one at 11(2)?

An Hon. Member: *[Inaudible interjection]*

Hon. Michael J. Scott: Yes. The ambit of the Minister. That was Mr. Crockwell?

The Chairman: Yes. His question was on subsection (2). He said that the police officer shall inform the Minister as soon as—

Hon. Michael J. Scott: Oh, yes. Thank you for that question.

The Chairman: —practical. He said what is the purpose? What happens as a result?

Hon. Michael J. Scott: Yes, again, the—

An Hon. Member: *[Inaudible interjections]*

Hon. Michael J. Scott: The police officer, of course, will have the capacity to make—

An Hon. Member: *[Inaudible interjections]*

Hon. Michael J. Scott: It is discretionary. There is an inquiry as to what has gone on. If, for example, by inadvertence, a child is in an area and the child either begins to make the case plain to the police officer himself or herself, or with the assistance, once the police officer gets that child to a safe haven and a

guardian, someone with responsibility for him or her, and the case is made that this happened by inadvertence or by some set of circumstances. The discretion of the police officer "kicks in"—if I may use that word, that language. And so it is a matter of inquiry and a rational deployment of the discretion based on inquiry.

Simply put, if the ban is breached by inadvertence, there is a defence that is available, clearly—

The Chairman: No, no, no.

Hon. Michael J. Scott: —or if there is an explanation.

The Chairman: I think the Honourable and Learned Member was just asking what happens. What does the Minister do as a result of being notified?

Hon. Michael J. Scott: What does the Minister do? Yeah. Make that inquiry. Listen to the facts.

The Chairman: Minister.

Hon. Michael J. Scott: Thank you.

The Chairman: Thank you.

Are there any other Members who still wish to speak? I see two.

I will recognise the one who caught my eye first, the Honourable and Learned Member, Mr. S. Crockwell.

Mr. Crockwell.

Mr. Shawn G. Crockwell: Thank you, Mr. Chairman.

I am obliged for the explanation of the Minister.

Just for further clarification, are you saying then that there is no sanction as a result of breaching a curfew order? It doesn't appear as if . . . my concern is that, based on how it is drafted and not knowing what the discretion, and/or options the Minister would have in the event of a breach, I am wondering if the individual is just going to ignore a curfew if there is clearly no sanction for breach.

Thank you, Mr. Chairman.

The Chairman: The Chair will recognise the Honourable Member, Mr. C. Swan, from Southampton [West] Central.

Mr. Charles F. B. Swan: Thank you, Mr. Chairman.

Now I'm going back, I have a question on an earlier section.

This is in the Interpretations, and that is [clause] 2. It talks about "responsible officer." And these are the people who are, I believe, charged with issuing the anti-social behaviour orders or the parenting orders.

I just wondered how this all jived. Well, first of all I wondered if perhaps the thinking that went behind just allowing a police officer, as the only person or type of person as a responsible person and perhaps not a school, or even a justice of the peace, or even an average citizen, because, especially when we are talking about anti-social behaviour orders, they have to be, I imagine, reported and sometimes you need witnesses and these types of things. So I wondered if that category should perhaps be considered to be broadened.

The Chairman: He is talking with respect to the Interpretation, clause 2, definition section, "responsible officer" being restricted to a police officer. And should it not be broader, I think is his question.

And now the Honourable and Learned Member, Mr. S. Crockwell, is on his feet.

Again, Mr. Crockwell, I recognise you.

Mr. Shawn G. Crockwell: Thank you, Mr. Chairman.

Mr. Chairman, it has just been brought to my attention by the Honourable Member, Mr. Gibbons, that actually in clause 7 (2)(c), that if a child contravenes a curfew ban, that they can be subject to a child safety order. So maybe that is the punitive measure that is available.

So, thank you.

The Chairman: The Chair recognises the Honourable Member, Mrs. N. Butterfield, from Pembroke—

Hon. D. Neletha I. Butterfield: West Central.

The Chairman: —West Central.

Minister Butterfield.

Hon. D. Neletha I. Butterfield: Thank you, Mr. Chairman.

I thought I would try to help out here because even when you know that the police will pick up a child, or a child is on curfew, we have to recognise that the Child and Family Services information is right there at the police station.

All Child and Family Services' employees are on twenty-four hour call. An assessment is done. The home is also checked. And, if the child is removed from the home that comes under the 1998 Children's Act, as well, to keep that child in that home, the Brangman Home or RTS. Assessments are done.

I think it is good to note that because even in [clause] 3 on the Anti-social behaviour order, this section allows for stronger working relationships between the courts and the Child and Family Services.

You would be surprised. If this incident happens, let us say twelve midnight, everything has to stop, especially in the family courts. So an order can be given as to what to do with that child or where to place that child. It is important to know that, because I believe the most important priority is that if all agencies are working together they are working for the best

interest of that child to suppress the anti-social behaviour.

And also one of the questions that the Honourable Member, Mr. Crockwell, had, we wouldn't say so much punitive; but if there is some therapeutic work that needs to be done, all of that is done as well.

Thank you, Mr. Chairman.

The Chairman: The Chair recognises the Honourable Member from Paget East, Dr. the Honourable E. G. Gibbons.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman.

With regard to clause 11, and, I think, the very valid question from the Honourable Member, Mr. Crockwell, about is there any sanction. I think we have covered it possibly in the Child Safety Order. But that only applies to a child who is under the age of 10. So, I think the concern that Mr. Crockwell has, if I may be so bold, is that if the police find a child, let us say, that is over the age of 10 in a curfew area, they take him home and the child says, *There really is no sanction here.* And the little rascal is out the back door again, and back in the area that they are not supposed to be in. I guess, unless there is an anti-social behaviour order placed, or something of that sort, I think my honourable colleague, Mr. Crockwell, has a valid point. There really is not much teeth to this, particularly with an older child.

I do not know whether the Government may wish to consider sort of a separate provision under the anti-social behaviour order, that would, sort of, address this issue, but that may be one way of handling it.

Thank you, Mr. Chairman.

The Chairman: Any other Members wish to . . . Mr. Minister, do you reply to that?

The Chair recognises the Honourable and Learned Member, M. Scott.

Hon. Michael J. Scott: Thank you.

I am grateful to Minister Butterfield for her expertise in this matter. And I think her answer was comprehensive. And on subsection (2), by the way, when the Honourable Member was asking me whether the Minister has powers, the provision does not actually speak to the Minister having powers.

If you read it for the language that is there, it is simply information given to the Minister. And it is important that they have information because that is what Mrs. Butterfield just talked about. That information will be passed on to the director, and it helps to shape the response.

So, I amend my answer. The Minister does not take any steps. The idea is to correct the child from being off base, by taking that child home, and being schooled by the director or designated officer, knowing about this particular child. They go to the home together and they will be able to assess if the police officer should leave that child in that place because it is safe or take it away. And it removes the possibility of the child moving off again, as Dr. Gibbons has indicated could happen.

So that is the way the scheme of the Act rolls and moves.

May I go to clause 12?

The Chairman: Members, do you wish to move clauses 1 through 11 as amended?

Hon. Michael J. Scott: I certainly do wish to move clauses 1 through 11.

The Chairman: The Minister has moved clauses 1 through 11 as amended. Are there any objections?

There are no objections.

Clauses 1 through 11 as amended are therefore approved.

[Motion carried. Clauses 1 through 11, as amended, passed.]

Hon. Michael J. Scott: I am grateful, Mr. Chairman.

The Chairman: Now you may proceed with Part 2, clauses 12 right through—

Hon. Michael J. Scott: To the end?

The Chairman: —20.

Hon. Michael J. Scott: Thank you.

Mr. Chairman and Members of the House, clause 12 of the Bill provides that: "[(1)] Any act of wilful misconduct by a child which results in the loss, damage or destruction of the property of another shall be imputed to the parent of the child and the parent shall be liable for the loss . . ."

"[(2)] A parent shall be jointly and severally liable with any other parent . . . for any award of damages . . . "

So the burden is shared. I think that is the point that is being made.

The maximum award for damages is $10,000. We should recognise that it is capped at $10,000 and we hope that it covers most mischief of damage that can occur at the hands of a little—

An Hon. Member: Ten-year old.

Hon. Michael J. Scott: Yeah, exactly, ten-year-old. Unless they are burning down buildings.

Clause 13 of the Bill provides for proof of the wilful misconduct, which is just due process.

Clause 14 of the Bill provides that this action is a civil action, to be commenced pursuant to Part III of the Magistrates Act of 1948.

Clause 15 of the Bill provides that only one award of damages may be made against the parent, arising out of the same act or conduct of the child.

Clause 16 of the Bill provides for various offences, which can be raised by the parent and the matters which need to be considered by the court.

Clause 17 of the Bill makes provision for the court to order payment of damages in a lump sum or by instalment, so there is flexibility.

Clause 18 of the Bill provides for the subrogation of the rights of the insured to an insurer who may have paid out in respect of any property damage.

Clause 19 of the Bill provides that the right of action against the parent under this Act is in addition to any other right of action or remedy which may exist under the law.

Clause 20 of the Bill empowers the Minister to make regulations as are necessary or expedient for the purposes of discharging all of the provisions under this Act.

Thank you, Mr. Chairman.

The Chairman: Does any Honourable Member wish to speak? We are doing clauses 12 through 20 of the Parental Responsibility Act, 2010.

The Chair recognises the Honourable Member from Pembroke South [West], Mrs. L. Jackson.

Mrs. Jackson, you have the floor.

Mrs. Louise A. Jackson: Thank you, Mr. Chairman.

Just a question to the Minister, please. [Clause] 12(3) which reads: "The joint and several liability of the parent shall not exceed $10,000 for each act of wilful misconduct by the child."

As we all know, there will be parents who do not have a $100 to pay, not to mention $10,000. What is the penalty going to be? What will happen if they are not able to pay the $10,000 either in full or in partial payments?

[Inaudible interjection]

The Chairman: Does any other Honourable Member wish to speak?

The Chair recognises the Honourable Member from Paget East, the Dr. the Honourable E. G. Gibbons.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman. I also had a question about clause 12(3), which says: "The joint and several liability of the parent shall not exceed $10,000 for each act of wilful misconduct by the child."

I am curious as to whether, when this was drafted, there is the ability now, let us say, under common law . . . let us suppose you have a child, who before this Act goes into place, goes out and sets fire to the neighbour's BMW. And the child is at that wonderful age where they love matches, they are obviously a little pyromaniac. The parent knows that they are a problem and obviously the parent should be watching the child. It goes out and torches the neighbour's brand-new BMW. There is no insurance on it, it is simply third party.

Would the neighbour be able to get the full impact of that now; whereas, once we put this through, the parent will be limited to $10,000. I am curious as to whether this Bill is actually limiting the ability of somebody to go after the parent as opposed to actually making the parent more liable.

Thank you.

The Chairman: Do any other Honourable Members wish to speak?

The Chair recognises the Minister in Charge, the Honourable and Learned, M. Scott.

Minister Scott.

Hon. Michael J. Scott: Thank you, Mr. Chairman.

If the child is a pyromaniac, then the child is going to have a perfect defence in Law for being mentally disturbed and—

[laughter]

Hon. Michael J. Scott: —and any lawyer, including myself, taking the case, would proceed along that basis.

The Act which I just read, however (do you remember?), says you are not restricted to just the provisions of this cap at $10,000. It says any other legal provision. So that keeps this law aligned and integrated with all available remedies.

And to the Honourable Member, Mrs. Jackson's question, if you cannot pay the $3,000, the Court is going to inquire why the parent cannot pay $3,000. The Act, as the Honourable and Learned Member, Mr. Crockwell, said, must have teeth. It does not make sense for us to be seeking to correct parental behaviour, because, look, these are adults. We must not make excuses for them. They have a child. Unless you can demonstrate, you have fallen with the defences, that you have tried everything, we want to inquire as to what is happening with this child. You are an adult.

So that is why the $3,000 must be there. Then the magistrate or the Supreme Court, whoever is dealing with it, will say, "Let me hear the reason why cannot pay $3,000. Let me put you on instalments. If you cannot do it . . ." then she may walk away clean. If her explanation is compelling, or his explanation is compelling, that is a matter for the court, really it is.

An Hon. Member: *[Inaudible interjections]*

Hon. Michael J. Scott: Ultimately, the court can say, "I do not like anything you are saying. Default, 100 days in jail."

An Hon. Member: *[Inaudible interjections]*

Hon. Michael J. Scott: I accept that this is harsh, but the court must be the arbitrator of that. We are legislators. We must make provision for making the legislation work and leave it to the courts and their discretion to display and discharge the justice. And the justice will be in the inquiry.

The Chairman: Minister, could I perhaps be of some help here.

This is the Civil Liability section, so if they could not pay $10,000, I do not know if they would order imprisonment in default.

Hon. Michael J. Scott: No, thank you, Mr. Chairman. I understand your point.

The Chairman: There are procedures that would presumably come into play—

Hon. Michael J. Scott: Yes, yes.

The Chairman: —under other Acts. You could do garnishee, or, or—

Hon. Michael J. Scott: Yes, I accept that. That is right. Yes.

The Chairman: Sorry. The Chair recognises the Honourable Member, Mrs. L. Jackson.

Mrs. Jackson, you have the floor.

Mrs. Louise A. Jackson: Mr. Chairman, I missed the exchange between you. And the question I had is just that. Are they imprisoned, or what? Or is it like parking tickets and—

Hon. Michael J. Scott: I think I should say this because it did not fall from Mr. Barritt, it fell from me—

The Chairman: The Chair recognises the Minister.

Hon. Michael J. Scott: I withdraw that, that they be sent to prison because Mr. Barritt and the AG were trying to get my attention. Civil Liability, you do not get default prison for civil liability.

You are engaged in it, and involved in a contest, which is looking at your civil liability. You find some way to . . . and, as happens in civil court all the time, you go after the man or woman of straw or you after the man or woman of substance. If they don't, you know, then you are in trouble. You hope that there is insurance that covers it.

But that is the normal.

So Honourable Member, Mrs. Jackson, if she doesn't have the money or pleads that she doesn't have the money, or he doesn't have the money, it is inquired into. And she may not have the money, but she may have a BMW, and she may have a house.

The Chairman: Wages.

Hon. Michael J. Scott: And she may have wages that can be garnished.

The Chairman: Thank you, Minister.

Are there any other Members who wish to speak to clauses 12 through to 20?

There are none.

Minister, would you therefore like to move clauses 12 through 20 as printed?

Hon. Michael J. Scott: Mr. Chairman, I move clauses 12 through 20 as printed without amendment.

The Chairman: Are there any objections?

There are no objections.

Those in favour.

AYES.

The Chairman: Clauses 12 through 20 are approved as printed.

[Motion carried: Clauses 12 through 20 passed.]

The Chairman: Minister.

Hon. Michael J. Scott: Mr. Chairman, I move the Preamble and that the Bill be reported to the House as amended.

The Chairman: The Minister has proposed that we approve the Preamble and that the Bill be reported to the House as amended.

All those in favour.

AYES.

The Chairman: Those against.

[gavel]

The Chairman: The Bill is approved as amended and will be reported as such to the House.

[Motion carried: The Parental Responsibility Act, 2010, was considered by a Committee of the whole House, passed with amendments, and will be reported to the House.]

The Chairman: Was there something else?

[Inaudible interjection]

House resumed at 9:28 pm

REPORT ON BILL

PARENTAL RESPONSIBILITY ACT 2010

Mr. John Barritt: Mr. Acting Speaker, I can report that he Bill has been approved as amended.

The Acting Speaker: Any objection to the Bill as being approved as amended?

No objections.

An Hon. Member: Next order.

The Acting Speaker: The next order is order number 9, The Court of Appeal Amendment Act 2010.

Minister of Energy, Telecommunications and E-Commerce, spokesperson for the Minister of Justice.

Minister.

SECOND READING

COURT OF APPEAL AMENDMENT ACT 2010

Hon. Terry E. Lister: Mr. Acting Speaker, I now move for leave to read for the second time, the Court of Appeal Amendment Act 2010.

The Acting Speaker: Any objections?

No.

Minister.

Hon. Terry E. Lister: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, there is a timeless challenge which confronts the Administration of Justice. It is that precarious line between upholding the right of those who come within the ambit of the Law to be finally exonerated by due process, while, at the same time, preventing the technicalities for exoneration from being used to circumvent a just outcome.

Mr. Acting Speaker, in plain language, the justice system cannot be just if it is so hamstrung by its own rules that it cannot retry a person for a criminal offence after acquittal, despite the fact that new evidence arising later is compellingly indicative of guilt.

Mr. Acting Speaker, the Bill entitled, the Court of Appeal Amendment Act of, 2010, makes provision to amend the Court of Appeal Amendment Act of 1964, in order to broaden the grounds by which the Director of Public Prosecutions can appeal a defendant's acquittal or discharge on a ruling of no case to answer for the offences of premeditated murder, or murder.

The Bill will enable the Director to appeal to the Court of Appeal against the decision taken by the Supreme Court to acquit or discharge a defendant of these offences of murder, or premeditated murder, on grounds of law, fact, or mixed law and fact, either where the Supreme Court erred and ruled that there was no case to answer, or where new and compelling evidence comes to light after an acquittal.

However, as a safeguard against abuse of the process, the Director of Public Prosecutions will have only one opportunity so to do. The Bill also permits the Court of Appeal where the interest of justice requires it to order in appropriate cases that the matter be retried.

Mr. Acting Speaker, the Court of Appeal Act of 1964 currently permits the defendant to appeal his conviction in the Supreme Court on any ground which involves the question of law, fact, or mixed law and fact. However, the grounds of appeal for the Director of Public Prosecutions are limited to grounds involving a question of law alone. This means in all cases that the Director of Public Prosecutions is only permitted to appeal on a point of law only, despite any issues of fact which may have made for a dubious acquittal.

Mr. Acting Speaker, the Bill proposes to address this disparity by widening the grounds by which the Director may bring an appeal to include, in addition to a point of law, any ground involving questions of fact, and mixed law and fact, but only for the offences of premeditated murder and murder. This means that for these offences only the Director of Public Prosecutions will have the same grounds of appeal as the defendant will the exception that this right of appeal can only be exercised once. This expanded ground of appeal will apply in those cases where a defendant was charged with premeditated murder or murder, but was not convicted at all, or was convicted of a lesser offence.

The Bill goes on to provide that if such an appeal is successful, a defendant can be retried for the substantive offence of premeditated murder or murder.

Mr. Acting Speaker, in 2000, the Privy Council determined that Bermuda Law contained no right of appeal for the Director of Public Prosecutions to appeal a Supreme Court finding of no case to answer. This was because such a decision was deemed to involve a question of mixed law and fact and the only right of appeal afforded to the Director of Public Prosecutions was on a point of law. The Bill will remedy this perceived defect so that in cases where the court errs in making such a finding, the decision can be subject to appeal by the Director of Public Prosecutions.

Mr. Acting Speaker, whereas currently the Director of Public Prosecutions has limited grounds of appeal based on a question of law alone, the Bill will therefore enable a right of appeal in instances where the acquittal occurred on the basis of a finding that

there was no case to answer for lack of sufficient evidence. This means that in cases where the Supreme Court erred in finding that there was no case to answer, the Director will be able to appeal that finding because such a finding will be deemed to involve a question of law alone.

Mr. Acting Speaker, you will be aware that section 6(5) of the Bermuda Constitution Order of 1968 provides that a person is prohibited from being retried for a criminal offence for which he has been convicted or acquitted, or for any other criminal offence for which he could have been convicted or acquitted at that same trial, except where there is an order by a superior court of appeal of the conviction or the acquittal.

Mr. Acting Speaker, this Bill endeavours to stay within the constitutional parameters by providing additional grounds of appeal for the Director so that any retrial is by way of an appeal. This means that where the Supreme Court erred on a question of fact, or where facts which could not be adduced at trial subsequently come to light at a later date, such as DNA or other scientific evidence, an appeal can still be made. And where the appeal is successful and the acquittal quashed, the matter can still be retried by virtue of an order of the Court of Appeal.

Mr. Acting Speaker, in developing this legislative initiative consideration has been given to the rule against double jeopardy and its significance. The rule against double jeopardy prohibits a person being retried repeatedly for offences arising out of the same circumstances as were raised at the original trial. This rule has been a part of English Common Law for centuries and has an entrenched policy objective of preventing abuse of process by prohibiting persons from being subjected to repetitive trials arising from the same facts, and offsets the advantage of the Crown, which is perceived to have limitless resources at its disposal.

The rule against double jeopardy, Mr. Acting Speaker, ensures that the court's decisions are final and, therefore, aims to prevent continual harassment by prosecutorial authorities, the fabrication of evidence, and any risk to the defendant of an unfair trial. Mr. Acting Speaker, the rule against double jeopardy is afforded protection by the Bermuda Constitution Order of 1968 and care was taken to maintain this constitutional protection.

It is acknowledged that the rule against double jeopardy places a necessary burden on the Director to present the best evidence, and requires law enforcement authorities to be competent and diligent in their investigations. To preserve these objectives, it was necessary to place limitations on the Director's now-expanded right of appeal, and the subsequent right of the Court of Appeal, to make an order to retry a defendant.

Such limitations include the test of ensuring that there is new and compelling evidence to warrant an appeal and subsequent retrial. This evidence cannot be held by the authorities indefinitely and the application to initiate the appeal must be made within 21 days of its availability. Furthermore, the Director of Public Prosecutions is limited to only one opportunity for such an appeal, so as to ensure reasonable finality in criminal matters and criminal trials.

Further, Mr. Acting Speaker, the Court of Appeal is permitted to give consideration to the interest of justice before making an order for retrial. Finally, the new provisions apply to only offences involving loss of life, namely, premeditated murder and murder.

Mr. Acting Speaker, the violence presently plaguing our community and Bermuda's shores is reflective of criminal offences spanning over a decade and which will see no person face conviction. There have been cases of unspeakable crimes where, had certain facts been introduced at the trial, convictions may have been forthcoming. There have also been cases in which errors have occurred during the proceedings and, despite facts to the contrary, such cases have been barred from retrial—even though the evidence of guilt has been overwhelming.

Mr. Acting Speaker, where a crime has been committed, but no person has been prosecuted due to a technical defence, the public perception of justice and how it is administered can be damning. Where there are crimes involving an element of violence, in which no one is penalised and the criminals are permitted to walk freely in and about the community, a profound sense of insecurity and injustice inevitably develops within such a community.

Mr. Acting Speaker, the Bill proposed today aims to address these injustices. It will ensure that in cases where the technology for investigating crime becomes more precise and available, prosecutions can still be made despite the fact that the evidence was not available to be uncovered at the time of the original trial. Therefore, by amending the law, to permit acquittals for premeditated murder and murder to be appealed on the basis of fresh evidence that is highly probative of guilt, is conceivably an effective tool to counteract the injustice of guilty persons remaining free on the basis of a legal technicality.

Mr. Acting Speaker, in developing this legislative initiative, consideration was given to the initiatives and practice taking place in other common law jurisdictions. The UK, for example, has experienced similar travesties of justice, and in the face of public condemnation, responded by enacting the Criminal Justice Act of 2003. This Act came into force in 2005 and banned the long-standing prohibition against double jeopardy in certain cases. The Act permits the UK Court of Appeal to set aside acquittals for a range of designated serious criminal offences where there is new and compelling evidence of guilt and enables the Court to retry such offences where it is in the interest of justice to do so.

In 2006, Mr. Acting Speaker, the Australian State of New South Wales, brought into force legislation to allow for crimes with a term of imprisonment of 20 years or more to be retried. Similarly, in the Australian State of Queensland, murder and other serious crimes resulting in terms of imprisonment of 25 years or more have been permitted to be retried where there is fresh and compelling evidence.

Mr. Acting Speaker, the Canadian Charter of Rights and Freedoms affords constitutional protection to the rule against double jeopardy. As a result, the Canadian criminal code was amended in a way to enable a prosecutor to appeal an acquittal on any ground involving a point of law. Where such an appeal is successful, and the acquittal is quashed, the subsequent retrial constitutes no breach of the double jeopardy rule.

Mr. Acting Speaker, the Bill proposed today is similar to these jurisdictions in its aim to achieve a just end to the prosecution of crime. But, unlike these jurisdictions, Bermuda's proposed expanded right of appeal and retrial only applies to the offences of premeditated murder and murder.

It is also important to note that this expanded right of appeal can only occur in relation to offences taking place after the Bill comes into force. Thus, the expanded right of appeal will not apply to offences taking place prior to these provisions coming into force as to do so would infringe the constitutional Prohibition against criminal laws being made retroactive. Mr. Acting Speaker, moreover, the Bermuda legislature does not have the lawful authority to make retroactive changes to the Bermuda Constitution Order as the Order is a creature of the Westminster Parliament.

Mr. Acting Speaker, the challenge of righting the wrongs of the past is always with us, as is the necessity of contending with the present. It is proposed that this challenge is best overcome by doing all that is feasible to ensure that these wrongs are not repeated.

Mr. Acting Speaker, there is a strong sentiment within our community that in the interest of justice a mistake of law should be corrected and that accuracy of outcome is more important than finality. Arguably, nowhere is this sentiment expressed more audibly than with respect to the offences of premeditated murder and murder.

Mr. Acting Speaker, it is, therefore, proposed that such offences are suitable to be singled out by this exception as they are regarded as the most severe of the serious crimes and entail both an intention to kill or an intention to cause grievous bodily harm. Further, given the current culture of violence troubling our shores and our islands today, such an approach is deemed both timely and essential.

The amendments contained in the Bill are necessary to prevent the guilty parties availing themselves of legal technicalities that allow them to avoid criminal convictions. The benefits of pubic safety and confidence and in the administration of justice outweigh any disadvantage likely to be faced by defendants being retried on the basis of new and compelling evidence.

Mr. Acting Speaker, I am satisfied that the amendments contained in the Bill will successfully promote a more effective administration of justice and ultimately serve a safer Bermuda. I commend this Bill to the House.

The Acting Speaker: Thank you, Minister.

Would any other Member like to speak to The Court of Appeal Amendment Act 2010?

The Chair recognises the Honourable Member, Trevor Moniz, Deputy Opposition Leader, Shadow Attorney General and Justice Minister. Smith's West, constituency 9. Minister Moniz, you have floor.

Hon. Trevor G. Moniz: Thank you, Mr. Acting Speaker.

I listened with interest to what the Minister who speaks in this place in behalf of Justice, the Honourable Member, Mr. Michael Scott, said with respect to the Bill in front of us, the Court of Appeal Amendment Act, 2010.

With respect to the point he made about retroactivity, I do not believe it to be accurate. I have looked at the Bermuda Constitution Order.

Firstly, with respect to the change in the provision in the UK, when they changed the provision in the UK, it was made retroactive. It specifically affected a case where a person there was stabbed to death and where originally the suspects, the accused, were acquitted, and then, I think with some new evidence, subsequently a conviction. It was very similar at that time to the Middleton case here, where we had a similar unsatisfactory disposition of a very serious criminal case.

With respect to the retroactivity clause, it appears to be addressed in section 6 of the Bermuda Constitution and there at subsection (4) it says, with respect to retroactivity, "No person shall be held to be guilty"—with your permission, Mr. Acting Speaker . . .

"No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

So that is a provision outlining retroactivity in a sense that if you did something which was legal at the time, it cannot subsequently be made into a criminal offence.

If we look at the following subsection (5), the Constitution states, "No person who shows that he has been tried by a competent court for a criminal of-

fence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal."

So those provisions of the Constitution specifically allow for retroactivity in a case such as this one. It is not a law.

With respect to provisions of this Act, we support the broad principle. And in the explanatory memorandum it speaks to the decision in 2000 of the Privy Council in the case of Smith and the Queen, which arose out of a disposition of a case. The trouble with this Act is that it seems to be some sort of unhappy compromise. The idea of restricting the right of the prosecution to appeal only to cases of murder/premeditated murder, seems to us on this side to be wrong in principle. There should be a like right of appeal for the prosecution as there would be for the defence.

Surely, the overriding interest in this case is justice for the community. Members of the public across this community know that in far too many cases we are seeing cases where there is overwhelming evidence and defendants have been discharged either by the judge or, indeed, by the jury where there appears to be some miscarriage of justice. And the judges need more arrows in their quiver to deal with this mischief.

We have a court of appeal there and it is there to review decisions by judges and, indeed, by juries, both for the defence and for the prosecution. And what has happened in Bermuda, clearly, is that the benefit has gone too far on the side of the defendant, as you can see by results of many of the cases.

The Bill that is before us today proposes an amendment which is good in principle, but not broad enough. And for those on this side, it should be extended to a greater ambit of offences than just murder or premeditated murder, and there is no reason why it should not be retrospective in the sense that it can activate at this time and apply to crimes which have already occurred. It is not creating a crime which did not exist before or creating a more severe punishment than existed before.

So we think the Government in this case has been too timid to address the real mischief before us, and we need to broaden the ambit of this legislation in order to protect the people of Bermuda and to provide for the public safety.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Mr. Moniz.

Would any other Members like to speak to the Court of Appeal Amendment Act, 2010?

The Chair recognises the Honourable Member, Mr. Crockwell.

Mr. Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, I too would like to applaud government for bringing this amendment Act to the House.

I can recall having a conversation, a dialogue, with the Honourable Minister who is presenting this Bill some years ago on this actual point, on the issue of double jeopardy and the principle of double jeopardy. And I know that he was then very adamant in the preservation and protection of the double jeopardy principle. The fact that he is today bringing a piece of legislation which actually erodes that, speaks volumes. It speaks volumes of the times that we are in today.

Mr. Acting Speaker, I think that if we look at the totality of legislation that we have enacted in this particular session, we certainly have to give kudos to the Government for being responsive to the circumstances and conditions in respect to crime in Bermuda. And, certainly, none of us expected to see this particular piece of legislation in the House. And we certainly, especially those who practice at the Bar, appreciate the objective and the purposes of double jeopardy.

Certainly, the Crown and the police have a duty and a responsibility to ensure that before they lay a charge and bring a person before the court, that they have done their due diligence, and that they have gathered as much evidence and that they are satisfied that they can secure a conviction. And if they are unable to do so, the principle of double jeopardy is that that person should not then have to be retried. But certainly, the interest of justice, Mr. Acting Speaker, should prevail.

We had this debate last week, as we debated a similar amendment act. I believe, many people articulated their reasons why they support the erosion of this particular principle. I certainly will not regurgitate the comments I made, but it concerns me, Mr. Acting Speaker, that we recognise the importance of this particular Legislation, but Government is only prepared to go half way.

I just cannot understand that. I just cannot wrap my mind around that at all. And there has been no one at the Bar that I have spoken to, Mr. Acting Speaker, who understands this. Why are we going to categorise one or two offences and say that in these circumstances we want to make sure that we get it right; but yet someone can cause grievous bodily harm and paralyse someone and due to some legal technicality (as the Honourable Minister stated), be acquitted. New and compelling evidence comes to the fore and that person will not be punished and justice will be denied. How is that sensible? It befuddles the mind that someone can be a victim of a sexual offence, a violent sexual offence, and the predator is acquitted. And new and compelling evidence comes

to the fore, but the predator goes free. Justice is denied, Mr. Acting Speaker, and I just do not understand it.

I just do not understand how we can come here and say that it is appropriate for murder and premeditated murder, but it is not appropriate for these other serious offences. And I dare say that if we speak to the victims of those offences, they would be gravely grieved, Mr. Acting Speaker. I support—I understand that there may be amendments to the Act. There will be amendments to the Act to remove the restriction of murder or premeditative murder.

I certainly hope that the Honourable Minister will clarify and provide the justification for the restriction, because I just cannot understand why we would not ensure that we will require that in all circumstances . . . and even if we restricted it, Mr. Acting Speaker, to serious violent offences, or violent offences and sexual offences, that would make some sense to me. But to just single out murder and premeditative murder, doesn't seem to be efficacious and I do not think it will be satisfactory to the people of Bermuda.

I am also concerned, Mr. Acting Speaker, with the fact that it is not retroactive. I did hear the Minister's explanation, and I certainly think that the Honourable Member, Mr. Moniz, certainly got it right in his interpretation of the Bermuda Constitution Order.

Mr. Acting Speaker, I see there is some disagreement, so hopefully we will get further explanation on that. But, clearly, again in this case, I certainly understand the general principle. Certainly, defence attorneys do not like to see legislation, especially legislation that deals with criminal sanctions, for that legislation to be retroactive. There is just a common understanding and principle that legislation should not be retroactive.

But in this case, we have to look at what we are trying to achieve. We are trying to ensure that individuals . . . and I can see how this cannot be buttressed by public policy. We are trying to ensure that individuals who have committed crimes— especially violent crimes—if new and compelling evidence is found and is probative, that they will be punished.

The flipside to this, Mr. Acting Speaker, is that guilty individuals in the face of sufficient evidence will go unpunished. That cannot . . . whether it is going forward or whether it happened in the past, the underlying objective should be to ensure that we achieve justice. And, Mr. Acting Speaker, there is a famous saying, *Justice denied to one is justice denied to all*.

And we should try to ensure, that where possible, where we fulfil the criteria of new and compelling evidence, that those individuals will see the justice that they require.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Mr. Crockwell.

Would any other Members like to speak to The Court of Appeal Amendment Act, 2010?

The Chair recognises the Honourable Member, Walter Roban. You have the floor.

Hon. Walter H. Roban: Thank you, Mr. Acting Speaker.

Not many remarks but, essentially, of course, this Bill is one that is very important. It is certainly making a number of changes to our Law, to some long-established common law principles, which in most common-law jurisdictions have been sacrosanct for as long as common law has been around, as it relates to justice and ensuring that there is equity and a level of protection for even those who find themselves under the scrutiny of the law.

I have noted the interesting comments of the Honourable and Learned Members of the other side. There seems to be an indication that there is a belief, certainly through this piece of this legislation, that we are being too timid. Well, Mr. Acting Speaker, I would suggest that this is one of the times where we must be careful because affording justice to persons is a very serious matter.

In our rush to satisfy the emotions of the public or perhaps commentary around issues by making certain changes to Law, I think we must err on the side of wisdom and experience. And it is a very serious matter, I should say, when you are looking to bring somebody back to the dock, to try them again. It is not something that should be taken lightly by anyone. And irrespective of what may be the public sentiment right now, with, certainly, with members of the community feeling a sense of powerless around the issues of violence and crime, I think it is important that what we do here is that we make careful steps.

Certainly, there has been much reference to changes made in the UK and other jurisdictions around this area. But I think it is important that we make careful steps in the interest of our own community. Certainly, I am not aware that there are substantial cases sitting around that would benefit from this particular change; that we are going to see a slew, a list, or there is proven that there are a number of cases where there is compelling and new evidence available that might, if the circumstances were different, bring about conviction—I do not know that—in Bermuda.

So, the idea of widening the scope of this to me, I think at this point for us, from a legal standpoint . . . because this is new territory. Irrespective of what you may think about what we are doing, it is new territory. It is a new frontier and must be ventured extremely carefully. You do not want to create a situation that turns out that justice is not quite as equal as it should be. Because persons . . . certain things happen that find all types of efforts to bring back cases from the past, or bring a sense of perceived justice back by some persons in your community.

I think the fact that this is being specifically addressed around the area of murder . . . murder is, arguably, the most heinous crime that can be committed on a human being, or a sentient being, a living being. This is being brought to deal with that, because this is the area upon which the human experience has its most traumatic effects. It affects families. It affects individuals, and also those who are the victim of it. If they knew who the person was who did it to them, they are not here to tell us.

Perhaps somebody who experiences GBH or some other violent crime has that opportunity to bear witness to who committed the crime. But in this case, when it comes to murder, that person, the victim, is the least able to be defended. And if these circumstances do arise, certainly what we are doing here creates that window where justice for the person who is a victim and those who are associated with them can be found ultimately.

But I do believe that it is important that we take this step carefully, which is why only on the scope of murder at this point, certainly, is appropriate. To widen it to other areas . . . maybe from the standpoint of this being such a new area of law that we are opening up in our system, perhaps with time (and I cannot speak for the future, I am not a soothsayer) it may be appropriate to widen the scope. But as delicate as this issue is, having such a narrow area where it can be addressed on the worst possible crime that can be committed would seem to be appropriate as the first step in this very novel area of law.

I think that it is the right thing to do under the circumstances with this issue, if we are going to address this issue in this way. And we shall see.

I am not expecting, because I am an optimist, that this will be exercised quite a bit. As I say, I do not know that there are cases waiting to be addressed under this principle in Bermuda, or even other violent cases (with the arguments on the other side of widening the scope) . . . that there are other violent cases that are waiting to be readdressed if such a provision were available. I do not know that. I have not heard that. And, if it is, I would be happy to be informed of such.

But, in light of the gravity of this change, I believe that the gravity merits a careful application, a very sensitive application. And having it available for the most heinous crime that can be committed against a sentient being is perhaps at this time most appropriate.

So, I think that this is the right way to go with this if one accepts the principle, if they accept that the principle of double jeopardy can be applied. It can be widened. Clearly, it is new to most Common Law jurisdictions to have this sort of scope available. Even in the UK it is a recent change. And that is the oldest Common Law jurisdiction on the planet. Even they have been hesitant to do this up until very recently. So why should we rush so quickly to widen the scope?

[Inaudible interjections]

Hon. Walter H. Roban: We must do what is best for our own community.

It is fine. The UK is fine. We can reflect, we can observe and we can see what they do. But, ultimately, we must do what is right for our community. And I believe that the way we are doing it is right.

I do hope that this Bill passes this House because I do believe that it will provide a sense of, *Well, if there is justice to be found under this criteria we can find it if we need to.* Some future time, some injustice can be written right. And I think that is a good thing.

So, Mr. Acting Speaker, I do believe that this is the right approach. I do believe that Bermuda will be better for it.

Thank you.

The Acting Speaker: Thank you, Minister.

Would any other Members like to speak to the Court of Appeal Amendment Act, 2010?

The Chair recognises the Honourable Member, John Barritt, from Devonshire South Central, constituency 12.

Mr. Barritt, you have the floor. And no *my, my, my, my*.

Mr. John Barritt: Thank you, Mr. Acting Speaker.

As promised, I said that I was going to use the words of Joe Brown on this one: “My, my, my, my, my, my, my.”

I toiled long in the vineyard on this one, Mr. Acting Speaker. I think it goes back to 2003, maybe earlier than that, where I brought forward a motion. Not arguing that we should have this particular piece of legislation, but that we should *review* the law as it stood then to see what we ought to do and what we could do. And here today the Government has come forward with this particular Bill which represents an incursion on a longstanding principle of criminal law, Mr. Acting Speaker.

There is no question that this is a significant step that we are being asked to take here. Unfortunately, it is coming late in the day. Last week we had to have a debate on another Bill. And I would really like to hear more and be engaged more with respect to this particular Bill because it is such an important and significant step—and, quite rightly, not one that should be taken lightly; not one that should be taken lightly!

But let us be clear. We are not asked to be doing anything novel here. It may be new to Bermuda. As one of my colleagues pointed out, this is something that has been adopted in other modern jurisdictions who are wrestling with some of the same criminal justice problems that we are. We just happen to be a little late in arriving to this particular development, Mr. Acting Speaker.

I cannot accept, as the Honourable Member who just spoke, that we ought not to rush. Rush is the last—the last thing—that we are doing with respect to this particular amendment.

I want to say something else as well. And I say it without rancour, Mr. Acting Speaker, but I say it because it needs to be said: that when this Member brought this forward, both in this House and at election time, I was vilified—

Some Hon. Members: My, my, my, my, my, my, my.

Mr. John Barritt: —personally, as well, Mr. Acting Speaker. Personally as well.

The political line at that time was . . . what was it? "Those boys just want to lock up all the Black boys in this country."

Some Hon. Members: Mm-mm, mm-mm.

Mr. John Barritt: But that is not the issue. And it will not be the issue here this evening, I am sure, because Government has recognised, in light of the circumstance, in light of the times in which we live we, [that we] need to review and revisit and change and take these steps, Mr. Acting Speaker. We need to do that.

And it has nothing to do . . . well, it does have something to do with race, I suppose. At the end of the day, who is going to be in . . . But the important thing is that you keep your eye on what is right and what is best for the community from the point of view of safety and law and order and, ultimately, justice—ultimately justice.

Now, one of the issues I had hoped that the Minister introducing it would have spoken to, but I did not hear him speak to, was this issue of consultation. Because, when you take a step like this you do want to consult with the community and certainly with members of the bar. And I want to tell the Minister this, and tell Members of the House this as well, that when I first proposed my amendments to the Court of Appeal Amendment Act, I did go to the Bermuda Bar and seek an opinion. I can tell you what came back was that they were divided on the issue.

Indeed, their view reflected that, pretty well, of the Serious Crimes Commission. Remember that, Mr. Acting Speaker? Back in 2000 . . . Oh, 2003 . . . It may have been earlier than that. We had a Serious Crimes Commission to review not just the Rebecca Middleton trial but all serious crimes. At that time Government did not want to focus on one individual case, or be *seen* to be focusing on one individual case. One of the issues that was dealt with in there was the rule against double jeopardy and whether there ought to be change.

Again, they said that this really was a matter for the legislature. They did not want to get into it. But they did refer to the case of the "Queen and Smith." And that is with some of the comments of the Lords and the Privy Council in London where they said—astounding as it may be—that the trial judge in that case decided that there was no case to answer. *We regret to say that there is no right of appeal for the prosecution. We therefore can take this matter no further.* Well, they indicated that perhaps this is something that ought to be reviewed from a legislative point of view so that there could be rights of appeal, so that the prosecution could have the same rights of appeal as the defence.

Now I come to another point. It is this point of limiting it to murder. Is it premeditated murder and attempted murder? Listening to the rationale of the Honourable Member who spoke before me, the Minister of the Front Bench—a Minister of the Cabinet, I mean, who obviously speaks with some authority, having sat in Cabinet and listened to the arguments—where he tried to persuade us that in proceeding one had to proceed carefully, and that proceeding carefully meant you could only limit it to those crimes. I have to say—respectably, of course—that I find that a nonsense.

Look! If you thought you were doing this because of the times in which we now live and the offences that were being committed in this community, you would have thought that it would have included firearm offences at the very least. That is one of the big offences, one of the issues we are dealing with. And we are excluding that.

And you would not want to talk with anyone who has been the victim of a serious sexual assault—

Some Hon. Members: My, my, my.

Mr. John Barritt: —and tell them that somehow they fall short of that mark.

I said last week, and I will say it again: If it is right, if it is the right thing to do, then you do it, and you do not limit it. You do not set up different classes of victims. And you leave it to the wise heads who sit on the Court of Appeal to decide. That is my view, whether something merits a retrial or not, and not limit it to murder or attempted murder or premeditated murder.

That is one that we on this side cannot agree with. So the amendment that will be coming forward Members, in Committee . . . I know that you do not have copies of it, but it is not an extraordinary lengthy thing. It just deletes those words and says that, where an accused person has been tried on indictment and has been acquitted or discharged . . . so we just delete those words. It does not limit it to anything other than someone who comes forward and is acquitted or discharged with respect to a charge on indictment. And that is a simple way of dealing with that.

Our view is that we would leave it to the Court of Appeal to decide on the circumstances of a particular case. Indeed, that was the import of the Bill that we discussed, or the principle that we discussed last

week, Mr. Acting Speaker, on the Bill that is before us. And I cannot go any further than that, because it would be to comment on something still on the Order Paper or to reflect on a debate, which I will not do.

But let me say here, and this is something that I am prepared to concede, Mr. Acting Speaker. If the Government said to me, *We want to move carefully here.* I understand that. And if they said, *That is why we have the provisions in there that say you can only seek an appeal on new and compelling evidence.* I could understand that we are going to be careful and timid going forward, and we want to carefully prescribe what can or cannot be taken forward on appeal—it has to be new and compelling evidence.

And that follows and that tracks the law in the United Kingdom where I do not think they leave it wide open, which is what I purported to do in a Bill where I said I would leave it to a court of appeal to decide on the circumstances of the case and what had happened in the lower level as to whether or not there ought to be a permitted retrial. And a body of law would emerge over time as cases came up.

I do not know how many cases the Honourable Member said may or may not, if it passed, take advantage of this, if it were allowed to be retroactive. I do not know. But, as to how many there might be, is of no consequence if it is only going to apply in the future, Mr. Acting Speaker, if it is only going to apply in the future.

So, I want to say, with respect to that, that I heard the Honourable Minister assert—and I am still scratching my head. I say that respectfully. Lawyers disagree and lawyers can be persuaded, sometimes, by a strong argument—that to somehow make this retroactive would make it unconstitutional. I would like to hear that particular argument. We did not hear it other than an assertion. And I have not heard it before now, Mr. Acting Speaker.

Although I will tell you this (and I will only go there very briefly): I remember when I first brought this forward in this House. And I believe it was the Honourable and Learned Member, at that time, who spoke with me. He thought the whole idea was not only repugnant to criminal law and the history—and he was right on that, it would be a change—but at that time he declared that any movement would be unconstitutional under the Bermuda Constitution Order. And I argued strenuously at that time—not so, provided it is done by order of a superior court. And that is what our Constitution allows. And you put in place law that permits that review.

So I do not, at this stage, buy the argument that it cannot be made retroactive. And, indeed, I am going to propose an amendment to delete that entire subsection from this Court of Amendment Act. Just to let . . . And, again, that is drawn up and signed, but it is fairly straightforward. There is no mystery, no need to spend a great deal of time on that. It is pretty obvious what we are proposing to do on that.

So, those are the two amendments we will make to that, Mr. Acting Speaker.

I want to say as well, just so the public are clear, those who listen may have known that last week I took out my Bill, which was substantially different and broader, but impacted on the same principle, Mr. Acting Speaker. And I decided to . . . and this is just so the public will understand. I think that it is important that they be let in on this debate.

Again, that is one of the drawbacks to the lack of consultation that comes with something like this. We have a Law Reform Committee. I do not know whether this went through the Law Reform Committee. We did not hear anything. I know. . . It is a pity that we do not have a consultative process that is more open. Even with our technology today we surely should be able to post draft Bills and invite people to comment, members of the community. So members can tap into that and get some idea of the breadth and depth of what we are proposing.

Instead, we relied, as we did, on a story which appeared recently in the *Royal Gazette* as to how members of the bar feel. And we do not know how members of the public feel. Sometimes they do not even understand what we are proposing to do until after it is done. Then they only rely on what they read or what they hear. You know, with technology today it is really unforgivable, Mr. Acting Speaker, that draft Bills are not posted and people are not allowed to tap into that and comment.

It does not even have to be a structure like we have [with] the Public Accounts Committee sitting down in the Senate. Yes, that would be nice as well. But you can do it . . . and if you have an open wall, like you do on Facebook, everybody taps into that. It might be an exhilarating experience, aside from beneficial, Mr. Acting Speaker. But that is a side point.

It is important, I think, that we do this. And that is why I say, if you will just allow me very briefly to speak to procedure here. What I did last week was to rise and report progress on my Bill, because I was concerned that if that Bill had been defeated last week, because the Government had indicated through the one Minister who spoke—the only Member to speak on the Government at that time—that if it went down to defeat I was concerned that it may be ruled out under our rules . . . there is a rule that says: "Any Bill, which has been negated . . . that is, defeated in the House, Mr. Acting Speaker, . . . no further question can be posed in respect of that matter in the same session.

So it could have very well been that if my Bill had gone down, if our Bill had gone down to defeat last week, that the Speaker, the person in the Chair, may have had to rule this week, *I am sorry. We have dealt with that matter. It has been negated. You will have to bring it back in November.* And I did not want that to happen.

I have been at this far too long, Mr. Speaker. The expression is: Never let the perfect be the enemy of the better. And Government has come forward with this Court of Appeal Amendment Act. I find it a personal vindication of sorts, Mr. Acting Speaker. But this is not about me; this is about what is best for the country, and what is best for justice in this country. And that is why I took the approach I did.

Notwithstanding that, I am still going to propose those to those two amendments (letting Members of the Government know), because I think that further improves, that further enhances what we are ultimately trying to achieve and the interests that we are ultimately trying to serve here, and that is justice. Justice for all! Justice that includes all offences and says that the principle is available for all and not limited to a few—a few offences or a few people.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Mr. Barritt.

Would any other Members like to speak to the Court of Appeal Amendment Act, 2010?

The Chair recognises the Honourable Member, Mr. Wayne Perinchief.

Mr. Perinchief, you have the floor.

Hon. Wayne N. M. Perinchief: Mr. Acting Speaker, as we all know, justice delayed is justice denied. And, truly, the wheels of justice turn slowly—and, in this case, very slowly—and especially in the instance of this Court of Appeal Amendment Bill, 2010. And particularly with this Bill, because we are a jurisdiction which sits, in our jurisprudence, between and in confluence with three areas of legal influence—i.e., Canada, the United States and the UK—we should broaden the scope of this Bill.

In this instance, the practical impact on the legal practice of criminal law in the country is without precedence. We have argued long and hard about what the effect of this Court of Appeal Amendment Act, or Bill, 2010, will do as far as carrying out justice. It would appear to me, from my layman's position that political considerations have crept into this Bill. And I support the Bill in this form for the sole reason it is a first step.

But I am at great pains to understand why, despite the fact that we have a precedent set in almost every jurisdiction that we have researched, that we have failed to go by legal precedent in much older jurisdictions and in jurisdictions where the law has been tested.

We sit cheek-by-jaw with the United States of America. And we know that, whilst some of the legal precedence that comes out of the United States is not always the best legal precedence to follow, we have to accept that the very technology that drives the [solving] of, if you like, cold cases, are things such as DNA—which came out of America, which came out of the technological advancements that they have made. Despite the fact that we have examples to show us that in many instances people who are wrongly convicted of crimes were freed and were released by retroactive application of rolling back the law of double jeopardy.

Mr. Acting Speaker, as I have said, I can speak perhaps with a greater scope with the expectation that I will be pardoned for my ignorance of the law. But as a layman, as a layperson, as somebody who wishes to see the objectivity of this legislation, I have to say that the law is deficient in that it does not embrace retroactivity in looking back, and it is limited in scope simple to murder and premeditated murder.

Mr. Acting Speaker, I have heard lawyers address this matter. But I would like to hear from the ordinary person, from other Members of this House who are daily affected by the outcomes of . . . I will not call them failed prosecutions, but of prosecutions which do not come about because, perhaps, of a lack of evidence, or because of a directive of, let us say, a judge on a point of law.

We are a small jurisdiction. And in many instances we know in our gut and we know in our hearts that some matters, some crimes, go unpunished. That being said, there will always be the emotional decision. And we accept that with the jury system there will be fail[ure]s and miscarriages of justice. Nevertheless, I believe that at this late stage of the game (and I say this late stage of the game, with the benefit of hindsight, with the benefit of legal precedence, with the benefit of looking at other more mature jurisdictions) we err. We err if we do not bring about a comprehensive piece of legislation to address these issues.

I do wonder if the practical consideration that if we are drafting law that patterns what the Mother Country (and I say that in legal terms) has accepted, that certainly must and will impact on any appeals that we put forward as far as Privy Council, then we should be consistent with that legislation.

So, it would appear to be not only just oversight, but perhaps an actual legal misstep, to not be in sync with the more superior courts and legal positions in this case. I think that as a small jurisdiction, as a jurisdiction that actually is inferior in terms of the law (I am talking about superior and inferior in terms of a legal standing), that at least we should come up to the same standard as the body of law in the United Kingdom.

With those comments, I take my seat.

Having said that I will vote for this legislation, but I would hope that immediately following the passage of this Bill, because I believe the Government, my Government, will stand by the Bill as it is drafted . . . but I would hope that as soon as it is practicable that we will bring forward amendments that will bring this legislation forward into this present [21st] century.

Thank you very much.

The Acting Speaker: Thank you, Mr. Perinchief.

Would any other Members like to speak to the Court of Appeal Amendment Act, 2010?

The Chair recognises the Honourable Member, Patricia Gordon-Pamplin, Paget West, constituency 23.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, contrary to the assertions made by the Honourable Member who first spoke, or who second spoke for the Government, that we have to proceed irrespective of public sentiment, or that we are approaching new frontiers that we must take time when implementing such major changes, I hope that both he and the Government recognise that in this Honourable Chamber we are rational, measured, thinking individuals. We are not a bunch of rabid emotives.

So, when one calls for expansion of the conditions of the Bill as it has been tabled by the Government, it is with very, very careful thought. Because, Mr. Acting Speaker, the question we would have among us is: Would anybody want to be the victim of a witch hunt? Clearly, the answer is no. And there is no justice system that would, hand-on-heart, be able to say that is appropriate, because clearly it is not.

Is there any one of us who is prepared to accept that an innocent man is convicted? No, there is not. No right-thinking person would want to see an innocent person convicted because of some miscarriage of justice. But the corollary effect, by the same token, Mr. Acting Speaker, who among us would want a guilty person to go free?

Now, the scope of this Bill has been restricted to the point of myopia. It is myopic. Let me be very clear, and perhaps a little graphic in the process. A murder victim is dead. If we come back with compelling new evidence for a murder victim, and we say that it is okay to have a retrial because there had been an initial miscarriage of justice, we are satisfying the family members who remain behind. We are satisfying the community that justice has now been carried, and carried effectively. We understand that. And we support that.

But, Mr. Acting Speaker, what worse experience can a victim have when a woman, who may have been raped brutally, has to see her attacker walking the streets, sometimes to the extent of being taunted by that individual, knowing that there is nothing that can be done, that she is going to have to live with looking this man in the eye forever because justice was miscarried. Can we as legislators put our heads comfortably on our pillow night after night to know that tomorrow morning some woman victim of a rape who has a perpetrator walking the streets can have no justice given to her? Can that be right? This Bill does not permit any justice to that individual.

Mr. Acting Speaker, the same situation might apply with a paedophile. When you have somebody taking advantage of a young child—who has molested and traumatised, sometimes to the point where that victim becomes catatonic in his response to the trauma that he has experienced, Mr. Acting Speaker . . . can we hand-on-heart say that is okay? They got it wrong in the courts, and that's all right?

When this child is going to be warped emotionally for the rest of his life, when there is compelling evidence that the person who has just walked out of the courts, walked out of the docks . . . clearly, there is compelling evidence that says that there was a miscarriage. Are we prepared in this Honourable Chamber to say that we do not have courage—courage to pass an Act that says justice must be served? That is our responsibility.

I would not want to be the one who has to look into the eyes of a parent when they have to deal with that trauma of their child, or to look into the eyes of a rape victim because they cannot get justice, when they themselves make the determination that in the absences of the protection of the balance of the scales of justice, their only alternative becomes vigilante.

We end up in a situation—and we will, Mr. Acting Speaker—where the attitudes of the Wild, Wild West will prevail in a country, in a jurisdiction that is suppose to be sophisticated, where the laws of this country are meant to protect every citizen under every circumstance. And nobody is going to tell me that somebody who has been murdered is the only one who has to be considered. There is the family of those people. Or perhaps even the victim of attempted murder. That those are the only ones who can get justice cannot be right! It cannot be right!

We are demanded by the constituents that we serve—and that is what we are here for, to serve. We are not here for political gain. We are not here necessarily to do those things that are expedient or convenient. We must be here to do that which is right. And it cannot be right to see a victim go unsatisfied in their pursuit of justice because of lack of courage of this Honourable House and Chamber.

When one looks at other jurisdictions, as we hear the Honourable Minister who brought this legislation indicate, and other Members have spoken to, the situation that places like Australia have this type of legislation. When they implemented it they made it retroactive. I accept the explanation and the interpretation of the Constitution, as read by my honourable and learned colleague, Trevor Moniz, over the explanation—I believe flawed—respecting retroactivity that was advanced by the Minister.

We have to know that when we look at the Constitution, we respect it. It is a document under which we operate. And the terms and conditions of the individual interpretations have to be tempered with a little bit of common sense. It cannot be selective that

we think it means this, when really . . . I am not a lawyer. So I will accept that from the outset. I am not a lawyer. But I am sufficiently educated that I understand English. And when I heard the Honourable Trevor Moniz read from the Constitution with respect to retroactivity, I have to say that his argument was far more compelling than that which was advanced by the Minister. And I certainly hope that we take that into consideration.

Now, the Honourable Member, Mr. Perinchief, in his dissertation indicated that it was his intention to support the Bill in its present form because he does not believe that the Government will change it at this point in time. And that he hoped that very soon after this is done the Government would come back as soon as it is practicable (I believe was his descriptive) to make changes that are necessary. Well, Mr. Acting Speaker, my honourable colleagues have indicated that they have amendments that are ready to go right now.

Now, is the Government going to tread on eggshells on this issue? We have it wrong thus far. We have it wrong when we want to bring this type of legislation that, yes, it is earth-shattering for Bermuda; but it is not rocket science in the spectrum of legalese as exists world wide. We have precedence established in other jurisdictions. It is not difficult to basically carbon copy that type of legislation and adopt it locally.

Why would I even suggest that we do that? Because it is the right thing to do. It is the right thing to do, Mr. Acting Speaker. We cannot walk out of this Chamber tonight and say that we will acquiesce to the comforts of the vagaries of Government because they do not want to upset the apple cart.

The Honourable Minister Roban said, "Irrespective of Public sentiments." The public is not wrong on this, whether [or not] we have polled them in specific regard to this legislation. I do not believe so. But are we going to refute science?

If we were dealing in 1920s and 1930s and 1940s, I can say that you are witch hunting. You brought an inappropriate set of circumstances to the court. The decision was taken. And the result is the result. Right, wrong or indifferently that is the result.

But we have the advance of science. All the things that we teach our young people to strive towards—excellence, getting things right and ensuring that we study well. We are presented, Mr. Acting Speaker, with the results of that research. We are presented with DNA. We are presented with trace evidence and things of which our forefathers perhaps could not even have dreamed of. But we have these at our disposal on a silver platter for our use—if we have the courage to use it.

So, I am not prepared to accept that we need to take more time. This is not something that has just arisen in the past week when we debated the other Bill. It is not something that came to the Floor of this House when the Government chose to put a Bill down that superseded the one already there of substantially the same nature—however more restricted it is. This is something that has been going on for a long time. We have discussed it. It has been discussed in boardrooms. It has been discussed in bedrooms. And it has been discussed in living rooms, and in party caucuses I am sure. And, at the end of those discussions, if we come out on a position that says that we have the wrong answer, and that there is a victim there who will not get justice, we have failed!

We will have failed!

When each of us wakes up on any morning, Mr. Acting Speaker, and we walk through the doors of these hallowed Chambers on a Friday morning with the intent of passing legislation for the good of this country that impacts equally every single citizen, we all want to leave, at whatever time we get out of here, knowing that our job is well done. But if we can pass a piece of legislation that is restrictive, that is myopic, that is unbalanced and defies the scales of justice, then we might just of well have never come to this Honourable Chamber.

There is an emotion that one would say you go through a jury trial and you do all the things that you have to do, and the result is the result. And it could be that, from an outsider looking in, we might say, *I don't agree with that result that came out as a result of a trial.* And that is okay. We all are going to have opinions.

But the operative words here, Mr. Acting Speaker, are *compelling new evidence*. It is not to say that we have information that we thought that maybe if we did not present it that we could get over and now the result is not what we want so now we are going to bring the ace out of the hole. That is not we are doing here.

We are saying that a full and proper and effective investigation could have been done, could have been used in the event of a prosecution. The result comes out being out what it is and the Court of Appeal—not just Pat Gordon-Pamplin looking at someone walking out of the docket and saying, *That guy is as guilty as sin.* Or, somebody having been convicted, knowing that he has the right of appeal, he has been found guilty and we look at it and, as a lay person, say, *No, no, no. This guy is innocent. We locked up the wrong man.* We do not want that result.

But *compelling new scientific evidence*! And we are prepared to refute it because we do not have the courage to broaden the scope of this legislation to ensure that every member of this community is fairly treated? It cannot be right.

I would certainly implore every Member of Government to support an amendment to this legislation that would make it right, that would make it, not necessarily progressive, but certainly in line with all other jurisdictions who have this type of legislation. Because I do not want to be lagging behind anybody.

We pride ourselves on being on the cutting edge. Let us show it with the courage that is required to support an amendment to this Act that broadens the scope of this myopia that has been presented to us by the Government tonight.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you Member.

Would any other Members like to speak to the Court of Appeal Amendment Act, 2010?

The Chair recognises the Honourable Member, Paula Cox, Deputy Premier, Devonshire North West, constituency 14.

Hon. Paula A. Cox: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, let me start off by saying that I would like to give credit to the Honourable Member, not just who brought the Bill, but, really, to my colleague who sits across the way, the Honourable MP Perinchief, because he has credibility as somebody who has worked in the area of law enforcement and he has seen it from the ground up. Even though he is not a lawyer, and does not have the legal background per se, he has a very pragmatic, sensible approach.

However, Mr. Speaker, I think that people have to be very careful not to overplay their hand. And I am speaking now not as a criminal lawyer, however I have studied criminal law. And my concern, Mr. Speaker, is that you will not find that the guilt trip works. Because the law . . . we have to realise that our legal system—and it goes back for donkey's years, even when you were in London. The issue of the legal system and the administrative machinery of justice, unfortunately all the cycles, all the aspects of it, are not working in tandem.

And we are standing here today where we are dealing with legal machinery that does not always operate with this view that there is this pure, almost naïve approach that justice is always discharged in the best way no matter what the intentions. That does not happen. And we certainly can hold up even from the Royal Commission of the 1977 disturbances to know that. So let us not pretend that life is pretty and see it through rose-colored glasses.

And this Government has taken the position consistently that we did not even want to touch the issue of double jeopardy and changing our position.

I can see in my mind's eye another grand dame . . . well, I shouldn't say another, because I am not one. But I can see the grand dame of criminal justice in my mind's eye. And she probably would shudder if she were here today and saw what we were planning to do.

However, we have moved on. And we are prepared as a Government to take a position that, given changing circumstances, we are prepared to take the position that in respect of cases where a person has been tried on indictment for murder or premeditated murder, and the Supreme Court has discharged or acquitted that person, or convicted that person of a lesser offence, and if new and compelling evidence comes to light after such acquittal, discharge or conviction, this Government is prepared to take the position that that warrants a second look, because of new and compelling evidence, and on the issue of murder and premeditated murder. And that is where we are. It does not mean that the position cannot change. But you do not have all the stars aligned in our justice system. And we, at this stage, are not prepared to go further than that.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Minister.

Would any other Members like to speak to Court of Appeal Amendment Act, 2010?

Minister, you have the right to reply.

Hon. Michael J. Scott: Mr. Acting Speaker, thank you, very briefly.

It is plain that the issues on which we are divided relate to what are still the enshrined protections of double jeopardy, which are still protected under the Constitution Order of Bermuda and this whole question of retroactivity. Those are the matters that divide us.

The Government maintains its position. We are not proposing to expand beyond murder and premeditated murder.

There were a couple of questions posed by Honourable and Learned Members in the House on the question of the Constitution's interpretation on double jeopardy.

Mr. Speaker, I have known for as long as I have practiced. I know that all Honourable and Leaned Members of the House also recognise that the whole question of retroactivity being applied to criminal law is contrary to law. It is contrary to our Constitution as well. Our Constitution recognises it. So for us to go off into amendments today changing the rubric and platform of retroactivity in relation to criminal legislation, cannot be done. That is why I maintain that we cannot do it because we are engaging in a Constitutional change.

This Constitution is not the creature of this House. So we will not do it. We cannot do it.

And that is all the Honourable and Learned Member, Mr. Moniz did, was read clause 4 and 5. He understood it not.

I have read it. And he read it.

[Inaudible interjections]

Hon. Michael J. Scott: It is a double whammy. It says that we are not going to touch either offence, and we are not going to expose a person to penalties that are greater than at the time . . . that were different from the time when it was committed, or the offence. And

so, it does not require much toiling over. I have read subsection (4) and (5).

But what is clear is the general principle. In the criminal area of law you do not make retroactive legislation. It is contrary to law. The United States recognises it. Ireland, Finland. Britain has changed it because it has a Parliament that says that the Parliament can make any law that it likes. But, arguably, under the Bill of Rights of the United Kingdom, they too still cannot make retroactivity legislation in relation to crime. It is a fundamental principle. A fundamental principle.

It may apply to taxation, because you need to run your country and earn revenue. Retroactivity does generally apply there. All of us have understood this when we have studied law in its basic rudiments. So we are not about to trespass on that basic principle.

It is the answer that I give to questions raised by my Honourable and Learned Colleagues why . . . or deal with the question, Minister Scott, on retroactivity. It is very clear.

And so, Mr. Speaker, I want to thank the Honourable Member, Mr. Perinchief, as well, for his insight, for his passion and for his analysis. But I thank him for his support of the Government's Bill.

I thank all Honourable Members who have indeed spoken. We recognise that there have been some progress. The Government of the day has moved to deal with the question of double jeopardy for the purposes of this country's circumstances that we find ourselves in.

And I have heard the Honourable Members say, and I welcome the fact that they accept and welcome that the Government has ventured out into the question of section 17 of the Court of Appeal Act and made provision to protect the administration of justice and on the front exclusively of murder and premeditated murder. And, as the Acting Premier has indicated, for the time being, murder and premeditated murder.

So, Mr. [Acting] Speaker, the hour is late so let us move now . . . I move that the Bill be committed.

The Acting Speaker: Any objection that the Bill be committed?

No objection.

Mr. Perinchief will you take the . . .

House in Committee at 10:56 pm

[Hon. Wayne N. M. Perinchief, Chairman]

COMMITTEE ON BILL

COURT OF APPEAL AMENDMENT ACT 2010

The Chairman: The House is now in Committee on the Court of Appeal Amendment Act, 2010.

Would the Minister in charge, the Honourable Michael Scott, Minister of Justice, wish to move the Bill?

Hon. Michael J. Scott: Thank you, Mr. Chairman.

Mr. Chairman it is a short four clauses. I ask to move all four clauses.

The Chairman: Any disagreement to the Minister moving all four clauses of this Bill?

Hon. Michael J. Scott: Thank you, Mr. Chairman.

The Chairman: The Ayes have it.

Hon. Michael J. Scott: Thank you, Mr. Chairman.

Clause 1, Mr. Chairman, is the citation and the short title of the Bill.

Clause 2 amends section 17 of the principal Act, The Court Appeal Act, 1964, by inserting subsection (5).

The subsection provides that a decision of a trial judge directing the jury to acquit an accused person tried on indictment for murder or premeditated murder on the grounds that there is not case to answer, is deemed to involve a question of law alone.

The reasons for this deeming provision are as follows: Between 1964 and 2000 the prosecution had been able to appeal acquittals in circumstances where a judge directs the jury to acquit an accused person at the end of the prosecution case. Those directions were based on the opinion of the trial judge that there is insufficient evidence to ground a *prima facie* case. And, therefore, there is insufficient evidence upon which a jury properly directed could convict the accused.

Sir, in 2000 the Privy Council in *Smith vs. The Queen*, Privy Council Appeal No. 44 of 1999, ruled that such a decision by a judge involved the question of mixed law and fact and, therefore, the Director of Public Prosecutions had no ability to appeal such a decision.

Since that ruling, trial judges have been unfairly burdened with the final word when upholding no case submissions and the Director has been deprived of a longstanding and important right of appeal. This ruling has long been the subject of local and international negative and public comment. The deeming provision will restore this right of appeal in the limited areas of prosecutions involving murder and premeditated murder.

Clause 3, Mr. Chairman, inserts sections 17B in the principal Act. Section 17B allows an appeal by the Director with the leave of the Court of Appeal. I specifically underline that "with the leave of the Court of Appeal" where an accused person tried on indictment for murder or premeditated murder has been acquitted or discharged or convicted of a lesser of-

fence than murder or premeditated murder, and new and compelling evidence subsequently comes to light.

The meaning of "new and compelling evidence," Mr. Chairman, for the purposes of the section is clarified. The notice of appeal must be filed in the Supreme Court no later than 21 days after the date on which new and compelling evidence comes to light; or after such longer period as the Court of Appeal may, in exceptional circumstances, allow.

Only one appeal is permitted to be made under this section in respect of the same trial proceedings.

Clause 4 inserts section 23B in the principal Act. The section provides that the court of appeal may reemit the case to the Supreme Court to be retried and make such order as it may consider just.

And so, those are the four clauses, Mr. Chairman.

Thank you.

The Chairman: Does any Member wish to speak to clauses 1 through 4 of the Court of Appeal Amendment Bill, 2010?

Now recognise the Honourable John Barritt.

Carry on, Mr. Barritt.

Mr. John Barritt: Thank you, Mr. Chairman.

Very briefly, I am conscious of the hour as well. We have had a full debate. The Minister is right, he knows what we are joined on.

I will say this, that a lot of what he just read was music to my ears. It was almost an echo. It took seven years to come back, but it was an echo, Mr. Chairman.

I wish to say this: I have two amendments to propose. The whip will distribute those. I indicated what they were before, and that is that we will delete in clause 2 and clause 3 the words "for murder or premeditated murder" so that we will open it up to all cases where people have been tried on an indictment.

I have not heard any cogent argument at all as to why it should be limited to just murder or premeditated murder, and should not include, if we are talking about current crime and current situation, firearm offences. For goodness sake, Mr. Chairman! They seem to be the rage today.

Just to make that point, I could go on about other crimes as well.

The other amendment is in clause 3 to delete subsection (5) on the retroactivity point. Again, let me just say we are joined on that, and I would be happy to argue it in another place, Mr. Chairman.

So I propose those two amendments.

Do you have them in front of you Mr. Chairman? I hope—

The Chairman: I do have the amendments in front of me.

Mr. John Barritt: They're not terribly onerous to understand or read, Mr. Chairman.

The Chairman: I will read them off.

Mr. John Barritt: Thank you, Mr. Chairman.

It would be in [clause] 2 to delete the words [in section 17 new subclause (5)] "for murder or premeditated murder"; and in clause 3 [new section] 17B (1) (a), again to delete the words "for murder or premeditated murder"; and then in [clause 3 new section 17B] (5) to delete it in its entirety.

Thank you, Mr. Chairman.

If what you would like to do . . . I would like to propose that we move one at a time, starting with the first one. Mr. Chairman, if you would like. But I am in your hands.

The Chairman: I would propose that you move all three at one time. Unless you want to—

Mr. John Barritt: Well, if you don't mind, Mr. Chairman, I would like . . . if you don't mind, I would suggest—

The Chairman: We have had a discussion on all.

Mr. John Barritt: —have a vote on all three. But the first two amendments are very much related and ought to be separated, I think, from the retroactivity point.

So I would propose that we vote on the first two amendments and take a certain course of action depending on the outcome of that.

The Chairman: On the advice of the Member proposing the amendments, I recommend, or I suggest that we move on clause 2, delete the words "for murder or premeditated murder," and clause 3 in section 17B subsection (1) (a) delete the words "for murder or premeditated murder."

Does any other Member wish to speak to the proposed amendments to the Court of Appeal Amendment Act, 2010?

I recognise the Honourable and Learned Mr. Crockwell.

Mr. Shawn G. Crockwell: Yes, thank you Mr. Chairman.

Mr. Chairman, just to weigh in and say that we certainly support the amendment as drafted.

I certainly see the wisdom in the amendment. Certainly, when we are seeking to ensure that we achieve justice in all cases. So, we would like for, certainly wisdom and compassion to prevail in this instance, as none of us would want to go to a victim of a violent crime, a victim of a sexual offence, and have to say that they will not get justice because we did not amend this legislation accordingly.

So we support the amendment, Mr. Chairman. Thank you.

The Chairman: Is there any other Member who wishes to speak to the amendment of clause 2 and clause 3?

In that instance, I will ask that those in favour of the amendments to indicate by saying Aye. Those against the motion say No.

AYES and NOES

The Chairman: In that case, it is so close we should call names, in this instance. We will wait two minutes and we will then call for names.

[Pause for ringing of the bells]

The Chairman: The two minutes have expired for Members to enter the House.

We will now call for names on the amendments to the Court of Appeal Amendment Act 2010, as proposed by the Honourable Member, John Barritt.

I will now ask for names. Those in favour of the amendments to clause 2, deleting the words "for murder or premeditated murder," and clause 3 in [new] section 17B (1)(a), deleting the words "for murder or premeditated murder."

Those in favour of the amendments say Aye, and we will call for names.

DIVISION

Ayes: 11	**Noes: 15**
Mr. John Barritt	Hon. Glenn A. Blakeney
Mr. Shawn G. Crockwell	Hon. Derrick V. Burgess, Sr.
Dr. the Hon. E. G. Gibbons	Hon. Dale D. Butler
Mrs. P. J. Gordon-Pamplin	Hon. D. Neletha I. Butterfield
Mr. Donte O. Hunt	Hon. Paula A. Cox
Mrs. Louise A. Jackson	Hon. Zane J. S. De Silva
Hon. Trevor G. Moniz	Mr. Ashfield E. DeVent
Mr. Nelson H. Cole Simons	Ms. Lovitta F. Foggo
Mr. Charles F. B. Swan	Hon. Wayne L. Furbert
Hon. Hubert (Kim) E. Swan	Hon. K. H. Randolph Horton
	Mr. Darius D. M. Tucker
	Hon. Elvin G. James
	Hon. Patrice K. Minors
	Hon. Walter H. Roban
	Hon. Michael J. Scott
	Mr. Michael Weeks

The Chairman: The amendments to the Court of Appeal Amendment Act, 2010, as proposed by the Honourable John Barritt, the Ayes, those in favour of the amendment, 11; those against, 15. So the Noes prevail.

Clause 2 of the Court of Appeal Amendment Act, 2010, and in clause 3, [new] section 17B(1)(a) . . . those two proposed amendments have been defeated and the Bill stands on clauses 2 and 3 as written.

[Defeated on division: Motion to amend clause 2 and clause 3 new section 17B (1) (a) of the Court of Appeal Amendment Act, 2010, failed.]

The Chairman: We can now go forward in voting on clause 3, in [new] section 17B which may be a voice vote. I will put the vote to the House.

In clause 3 [new] section 17B, delete subsection (5) in its entirety.

All those in favour, please say Aye. All opposed, No.

Ayes and Noes.

The Chairman: The Noes have it.

So the Bill stands as it is without amendment.

Minister, do you now wish to move the Preamble?

Move everything.

Hon. Michael J. Scott: I move that clauses 1 through 4 be passed without amendment. I move the Preamble, and I move that the Bill be reported to the House.

The Chairman: Yes.

All those in favour of that motion, please say Aye.

Ayes.

The Chairman: The Ayes have it.

[Clauses 1 through 4 passed without amendment.]

The Chairman: The Bill will now be reported to the House by this Chair.

[The Court of Appeal Amendment Act, 2010, was considered by a committee of the whole House, passed without amendment, and will be reported to the House.]

House resumed 11:14 pm

REPORT ON BILL

COURT OF APPEAL AMENDMENT ACT, 2010

The Acting Speaker: Any objections?

No objections?

We will move to the next order. Orders 10, 11, 12, 13, 14, 15, 16 carried over. Motion moved by K. H. R. Horton. Mr. Horton?

MOTION

PARLIAMENTARY SELECT COMMITTEE TO INQUIRE INTO THE RISE OF VIOLENT CRIME AND GUN VIOLENCE IN BERMUDA

Hon. K. H. Randolph Horton: Thank you, Mr. Acting Speaker.

I would like to move that pursuant to Part IV of the Parliament Act 1957 that a Parliamentary Select Committee be appointed to enquire into the rise of violent crime and gun violence in Bermuda, to enquire into the causes of violent crime and gun violence in Bermuda, to report on the findings and make recommendations to the House of Assembly so that concrete actions can be taken in a reasonable time and that the report be tabled by the first sitting of Parliament in 2011.

Mr. Speaker, I certainly appreciate the opportunity to stand and speak to the Motion that I have just read.

When we look in 1953, the House of Assembly appointed a nine member, five whites and four blacks, select committee concerned with racial problems. That committee recommended that there should be no colour bar in Government employment. And, as a result of that, Mr. Speaker, we saw black nurses being engaged at the King Edward Hospital and we also saw black players being able to participate at the government tennis stadium.

Mr. Speaker, obviously the people of Bermuda at that time did not think it went far enough and in 1959 we saw the theatre boycott which brought quick results.

Mr. Acting Speaker, we move on to April of 1968, on the 25th of April, 1968, complacency amongst Bermudians became history when we saw civil disturbances which lasted for two days. They had an intensity that, indeed, had not been seen before in Bermuda. As a result of that, there was a Premier commission set up headed by Sir Hugh Wooding, to look into the causes of the disorders and to recommend steps for their removal.

Mr. Speaker . . . Mr. Acting Speaker, I hope you don't mind me calling you Mr. Speaker. Do I have to say Acting?

Some Hon. Members: Yes.

The Acting Speaker: Acting, yes.

Some Hon. Members: Parliamentary rules.

Hon. K. H. Randolph Horton: I am asking, because saying "Acting" is much harder than just saying "Mr. Speaker." And it's late at night.

So, Mr. Acting Speaker, that Wooding Commission indeed looked into the disorders and recommended steps for their removal. That Commission found that virtually everything in Bermuda was viewed in racial terms. And, indeed, made recommendations for education, job opportunities, immigration, social welfare and policing to combat this situation. And so, some progress was made as a result of that.

And, Mr. Speaker, of course we move on to December 1977. And in December 1977 we saw Erskine Burrows and Larry Tacklyn executed. And as a result of that . . . we know the history. Riots in the streets of Hamilton, British forces being brought into Bermuda, and then as a result of that we saw the formation of the Pitt Commission, which was appointed to inquire into the disturbances.

Mr. Acting Speaker, the Pitt Commission made wide-ranging recommendations which led to improved opportunities for blacks in Bermuda. I would like to say that the Pitt Report should indeed be, I believe, instructive to the deliberations of a select committee once it is approved.

Mr. Acting Speaker, the question is what is . . . and I think is important for the public to understand what a select committee is. A parliamentary select committee is a committee of Members of the House of Assembly appointed by order of this House. And in this case the select committee would be appointed to deal with a specific issue. And the specific issue that we are talking about here as stated in the Motion is the rise of violent crime and gun violence and, indeed, looking at the causes of the same.

Mr. Speaker, we have heard today . . . it is very interesting what has taken place in this House today, particularly in light of the fact that I was to bring this Motion here tonight. Indeed, much of what has taken place today really instructs some of what the committee would certainly have to be looking at and bringing together.

We have heard about the importance of parental responsibility. And we have heard to a great extent about its impact on how young people behave. Indeed, how young people behave leads on to how they behave as adults. And, with the challenges that we have had, with parental responsibility bringing on the need for the government to look at bringing about some legislation . . . you know, what we are looking at, Mr. Speaker, is this committee being able to, again, garner and bring together all of the information that has been discussed today and even more, once the committee has gotten going.

Now, Mr. Acting Speaker, Bermuda is seeing an unprecedented rise in crime and violence. An unprecedented rise. Just the other night, right in my constituency we have the second . . . first of all we had a murder a couple of weeks ago, Mr. Acting Speaker. And then we had reports of gunshots just a couple of nights ago. It just seems as if it just continues on.

We have had more murders this year than in the whole of 2009. We saw in the paper today reports about some 110 firearm incidents reported to police which is, it says, 11 times the figure for 2007.

Mr. Acting Speaker, we have had a total of six murders. And when we look at that . . . you know,

Perry Puckerin, James Lawes, Kimwandae Walker, George Lynch, Dekimo Martin, Frederick Mabury. What do these men have in common? These men have all suffered the brutality and the senseless firing of a firearm that has taken, snuffed away their lives.

The violence in this country has gotten to the point where we have residents, constituents, moving around in our community feeling unsafe, not feeling safe in their own communities. It was said the other day . . . I heard one of my colleague's say that people do not have to go to prison in Bermuda to be in prison. And there are many of our young men in Bermuda now who are in prison, out of prison. And what I mean by that, Mr. Speaker, is that when you look at the fact that some young men who may live in Somerset are unable to go to St. George's for fear of being attacked.

I know the story of a young man who worked for a company who needed to do a job in an area that he could not go to. He told his boss, "Sorry, I can't go there. I can't go in that area because if I go in that area something may happen to me." So what happens? He has to get down in the truck, down under the seat of the truck. He had driven up to the house, he opened the door, he jumped out and ran into the house. That young man is in prison. And many of our young men in this country are in prison.

Mr. Acting Speaker, the soaring murder rate is part of a broader picture of lawlessness in our country. When we look at the picture . . . let's look at this picture of the break-ins and entering in our country, of the reckless driving along our roads. Clear disrespect for other people and disrespect for the law all around the Island.

Mr. Acting Speaker, the question is how much damage is this doing to Bermuda in several ways. How much damage is it doing to our quality of living in our communities, where families are able to move about in their communities safely?

Mr. Acting Speaker, the question that we must ask is how much damage is this doing to our reputation as a safe destination, as a safe tourist destination? We have tourists who are having some concern and are asking questions about the violence that is taking place in our community.

I can remember when we go back . . . you know, the one thing that we always said about tourism and about Bermuda . . . I will never forget speaking to travel agents and the like. The one thing you could always say to them was that Bermuda is safe. And then for a period of time when we started to have our incidences, we had a couple of murders here and there, and we would say, *Well, it's still safe. If you look at it in relation to what takes place in other countries, it's still safe.*

But, Mr. Acting Speaker, it is getting to the point now where . . . are people really going to believe that it is safe? When, in fact, we have had . . . we are in the seventh month of the year and we have had six murders. Hopefully, we will not see any more this year. But six murders is just too many.

The sense of safety in our community, the sense of safety and being able to move around in a peaceful way is being shattered in our community. And we, on the Floor of this House must do something about it.

We have had discussions over and over. And I am not going to take too long tonight because we have been discussing this. Every time we have a murder we have the discussion about violence and crime.

So now, what I am proposing is that we move in this House to come together to listen to the various organisations and the public in this country in order to come up with the solutions that I think can help us deal with some of the issues that we have as a result of this crime in our community.

Mr. Acting Speaker, it is really a shame, I think, when we look at the Bermuda that all of us grew up in that we have had to come so many times to this House to talk about this issue of crime and violence.

Mr. Acting Speaker, as I mentioned many meetings of the House of Assembly ago, I feel in my heart and am very passionate about the fact that a select committee of parliamentarians, drawing on the wisdom of parliamentarians on both sides of the House, can come together to listen to what others have to say, what experts have to say. And, as a result of deliberations, come to this House with recommendations taking us forward, recommendations that would help us to address this whole issue of crime.

Mr. Acting Speaker, why a parliamentary select committee? Because I really believe, Honourable Members, that this is a national issue. This is not a political issue—this is a national issue. And let us face it, we do not all have the answers. We, on this side of the House, do not have all the answers; the other side of the House do not have the answers. But I think that together, as parliamentarians, as a select group drawing on information that we can get from members of the public, from organisations, such as churches, such as people who are dealing with young people, such as the Police Service, government agencies. Once we draw on the knowledge that these people have, the wisdom that they have, at the end of the day I believe that we can come up with recommendations to help move us back to being a safe community.

I firmly believe, Mr. Acting Speaker, that the committee should work in a non-party, political manner. This is a national issue.

When we look at parliamentary select committees, many countries' parliaments have had and continue to have success with select committees. I have looked at countries like New Zealand, Australia, Canada, and even the European Parliament which has set up select committees to deal with special issues. I will give you an example. In Australia, presently there is a committee inquiring into the high level of involvement

of indigenous juveniles and young adults in the criminal justice system. This is happening there now.

Mr. Acting Speaker, through the select committee I believe that Parliament will obtain information, as I mentioned earlier, from government agencies, departments and other organisations, and advice from experts on the matter under investigation.

I believe, Mr. Acting Speaker, that public input is also very important to this committee, and Parliament, as a result, will be able to be better informed of community problems and activities. Mr. Acting Speaker, I believe that the committee will certainly provide a public forum for the presentation of various views of individual citizens and interest groups in our country. And I believe that there will be lots of people, individuals, groups and organisations, who will be willing and ready to share their positions with this committee, once set up.

Mr. Acting Speaker, the committee also would allow parliamentarians to examine issues in more detail and with greater public input than if the matter was considered just by the House as a whole. Mr. Acting Speaker, the parliamentary committee provides an opportunity for more citizens to participate in the democratic process; more citizens to have a say and give their view directly to parliamentarians.

Mr. Acting Speaker, at the select committee's meetings, they will have an opportunity to make submissions, to give oral evidence, and they probably will attend public hearings. Of course, at the end of the day, those people who participated will indeed obtain copies of the reports. So, Mr. Acting Speaker, it is important that we have the parliamentary select committee, which will give us opportunity to get this wide range of views.

Mr. Acting Speaker, in the Motion I said "Pursuant to Part IV of the Parliamentary Act 1957." I think it is important to recognise that as a result this will give the committee teeth, Mr. Acting Speaker. It would give the committee's chairman the power to be able to summons witnesses. If there are witnesses that the committee feels are important to be there, than being pursuant to the Parliamentary Act of 1957 gives the committee that power to summons witnesses to give their evidence under oath.

So Mr. Speaker, I did not want to spend a lot of time. I told my colleagues, especially late at night I do not think it is necessary to spend too much time on it because I think all Honourable Members in this House understand the importance of this Motion that is before them today. We have not seen much of this, Mr. Acting Speaker, in terms of select committees, but I believe truly, that this is the way to go on this one, and I certainly ask that this whole House support the setting up of this parliamentary select committee.

Thank you, sir.

[Desk Thumping]

Mr. Acting Speaker: Thank the Honourable Member Mr. K. H. R. Horton, the mover of the Motion before the House, which is that a Parliamentary Select Committee be appointed to inquire into the rise of violent crime and gun violence in Bermuda; to inquire into the causes, to report on the findings and make recommendations to the House so that actions can be taken in reasonable time and the report be Tabled by the first sitting of Parliament in 2011.

The Chair now recognises the Honourable Member, Mr. T. Moniz, from Smith's West, constituency 9. Mr. Moniz, you have the floor.

Hon. Trevor G. Moniz: I am obliged, Mr. Acting Speaker.

I will be very brief here. The situation here is that this select committee has been mooted publicly before. We have publicly, on this side of the House, supported the idea. I personally have, and we on this side have supported the idea of a parliamentary select committee. That was certainly at a time where Government seemed to be finding it very difficult to take any substantive action towards addressing the very serious problems we are having in this community with completely out-of-control violent crime—gun violence and gang violence which continues as we speak.

Government are making some moves, very belatedly, through a number of matters which have come before us, including the Firearms Act and the Criminal Appeal Amendment Act, and some of the PACE legislation, et cetera, more recently.

We on this side still support this Motion—which has been moved by Mr. Horton—and we look forward to a committee being formed under the provisional Standing Orders of the House of Assembly. We look forward to participating and getting input (as he said) from a broad and diverse range of this community to look for the causes and to enable us to move towards more effective solutions to the very violent crime that we are facing in this community, which is affecting the fabric of this community both at a local, family level (in terms of victims and people fearing for their safety), and from a point of view of business (both international business and tourism) being severely affected by it.

Having said that, I will say no more, other than we fully support the idea, the Motion put forward by Mr. Horton for a parliamentary select committee.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Are there any other Members who wish to speak to the Motion?

The Chair now recognises the Honourable and Learned Member, Mr. S. Crockwell, from Pembroke West.

Mr. Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, we also fully support this Motion brought by the Honourable Member Mr. Horton. We recognise that, as one of the highest authorities in this country, we have a responsibility to tackle the issues, the germane issues which are confronting our society and our community. It is without question, Mr. Acting Speaker, that crime right now is the number one issue that we need to tackle. If we do not get this issue under control, Mr. Acting Speaker, it can have the impact of undermining our very quality of life in this country.

And so, I applaud the Honourable Member, we support it wholeheartedly; we hope that we will have representation on the select committee. As you know, the Honourable and Learned Member, my colleague, Mr. Mark Pettingill, has been at the Criminal Bar for many years, and this Honourable Chamber has been advocating for greater participation and that we needed to put our minds together so that we can save our community and bring security back to our streets.

So we say "well done," and we look forward to taking our role in this select committee.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Do any other Honourable Members wish to speak to the Motion of the Honourable Member Mr. Horton?

If there are no other Members, Mr. Horton indeed, under the standing orders you have a right of reply if you felt one was necessary in the circumstances.

Hon. K. H. Randolph Horton: [INAUDIBLE]

The Acting Speaker: Thank you, Honourable Member Mr. Horton.

I shall now put the Motion. Members have it before them, whether I shall need to read it, I will just précis it.

It is that a Parliamentary select committee be appointed to inquire into the rise of violent crime and gun violence in Bermuda, to inquire into the causes of violent crime and gun violence, to report findings and recommendations to the House so that actions may be taken in a reasonable time and that the report be Tabled by the first sitting of Parliament in 2011.

Those in favour, say aye, those against, say nay. Those in favour? Those against?

Ayes.

[Gavel]

The Acting Speaker: The ayes have it. The motion is carried.

[Motion carried]

MOTION

ADOPT A CODE OF CONDUCT FOR MEMBERS OF PARLIAMENT

The Acting Speaker: The next two items on the agenda are matters in the name of the Shadow Minister for Legislative Reform Public Administration, who is not in his seat, so they will be carried over.

That brings us on to Order number 20, the Motion moved by the Honourable Member Mr. N. H. C. Simons, notice of which was given on June 4, 2010, that this House adopt a Code of Conduct for Members of Parliament in order to assist Bermuda's Parliamentarians in the discharge of their obligations to the House, their constituents and the public.

The Chair recognises the Honourable Member, Mr. N. H. C. Simons.

Mr. Simons.

Mr. Nelson H. Cole Simons: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, for the past 18 months…

The Acting Speaker: You wish to proceed with the Motion?

[Laughter]

Mr. Nelson H. Cole Simons: Yes, Mr. Acting Speaker, I propose that we move ahead with the Motion.

An Hon. Member: Have you looked at the clock, though?

An Hon. Member: It is early yet.

The Acting Speaker: Mr. Simons has the floor.

He wishes to proceed with his motion.

Mr. Nelson H. Cole Simons: Thank you, Mr. Acting Speaker.

For the past 18 months, a reoccurring theme in our community and in our Parliament, and in the press and in the community at large, is the standard of conduct for our parliamentarians.

Mr. Acting Speaker, what are we talking about? At this point, I would like to go through some of the issues that have faced the community that have brought our roles into ill repute as parliamentarians.

Mr. Acting Speaker, what has led to the low esteem that the community has for our parliamentarians? The first thing that I could think of was the Premiers handling of the Uighur situation, Mr. Acting Speaker. We had a Premier that acted beyond his constitutional authority. We had a Premier that acted in isolation without the approval of his Cabinet, Mr.

Acting Speaker. That was probably one of the most unconstitutional decisions made by a Premier in Bermuda Government's history, Mr. Acting Speaker.

Mr. Acting Speaker, we have the rumour throughout the community, "what is in it for me?" when it comes to developing a hotel property. This is what people are saying. "Those Members of Parliament are in it for themselves."

[In the] 2000 election, we heard a comment from a leader of this country. "We had to deceive you to win the election." "We had to mislead the community," Mr. Acting Speaker. This is not behaviour that is becoming of elected representatives.

Mr. Acting Speaker, we had Audit Report, the Special Audit Report that was put in place to examine the Housing Corporation scandal. A cloud of suspicion surrounded a number of our Cabinet Ministers. And I say "a cloud of suspicion." And, again, this cloud of suspicion, Mr. Acting Speaker, has put the reputation of Members of Parliaments into ill repute.

We had another Auditor's report that examined what was going on—

An Hon. Member: Ill repute? Ill repute? What ill repute?

Mr. Nelson H. Cole Simons: —in the ownership and the spin-off of the Lois Browne Court Building, the Police Station. There were issues there as far as funding and a cloud of confusion.

We have the illegal development at the Heritage Wharf in Dockyard. We had to go back and get retroactive planning after it was developed.

The Acting Speaker: Honourable, Mr. Simons.

Mr. Nelson H. Cole Simons: Yes, Mr. Acting Speaker?

The Acting Speaker: Under the umbrella of purporting to say that this Honourable House adopt a code of conduct, I think that you are taking too much licence in imputing the integrity of certain Members of this House.

Mr. Nelson H. Cole Simons: Mr. Acting Speaker, no. What I am doing is painting the scene that has led to why Bermudians feel that the calibre of leadership and the conduct of Members of Parliament in this country is unacceptable.

I am just reiterating the issues that led Bermudians to believe that we are not people of integrity. And that is why I am painting the picture of how Bermudians came to believe that during the past 18 months, our leadership—

An Hon. Member: What proof do you have?

Mr. Nelson H. Cole Simons: —issues in this country are not up to scratch from a conduct point of view. That is what I am doing.

The Acting Speaker: Honourable Mr. Simons, with respect, I would suggest that a lot of your assertions—certainly some of them—are, at this point. . . I would not say "fabrication," but certainly hypothetical.

In that vein, I would suggest that you move to the position where you provide some solutions. What do you recommend as a code of conduct?

Mr. Nelson H. Cole Simons: I am getting there! I am getting there.

The Acting Speaker: And I suggest you hasten, sir. Because I may have to at least sanction you if you impugn the integrity of certain Members of this House, in general, and those specifically.

So I must caution you. Tread lightly.

Mr. Nelson H. Cole Simons: Mr. Acting Speaker, I will only present facts as they are, without interpretation, Mr. Acting Speaker.

Mr. Acting Speaker, another issue that puts our behaviour into question . . . and these are facts, I did not fabricate them. There was the activity at the Playboy Club—that party, which basically showed disrespect for Bermuda's women, Mr. Acting Speaker.

[Inaudible interjections and general uproar]

Mr. Nelson H. Cole Simons: Mr. Acting Speaker, there was recently a shredded letter returned to the Mayor of Hamilton by someone, supposedly in government. Again, these things lead to one questioning the integrity of our politicians. And that is why, Mr. Acting Speaker, we need to have some high standards, some high ethics, and some real honesty in this Chamber and the way in which elected representatives behave in the community within their constituency.

So my code of conduct is not just for the House of Assembly, it is how we carry ourselves in this country, in our constituency, and in the House of Assembly.

The Acting Speaker: Mr. Simons, with respect.

With respect, I would suggest that we can regulate the code of conduct within the parameters and the precincts of this Parliament. I doubt very much if that could extend outside into Members' private lives.

Now, I hear what you are saying, and that may be on your wish list; but how do we, as a House, make this happen in practical terms?

Mr. Nelson H. Cole Simons: Yes, Mr. Acting Speaker, I will be getting there.

I am not addressing one's private life. We have a responsibility to our constituents, the people of this country, and we have a responsibility to behave in a manner that is becoming of a representative of a country. And I am suggesting that we codify the standards of performance that we need and expect for our politicians, our elected representatives, and our Senators, Mr. Acting Speaker. That is where I am going.

Because right now there is no code, there are no performance benchmarks; there is no standard that we can have enshrined that would show new Members of Parliament a sense of how they ought to perform in the community, in their constituency.

In the House we have the new rules that we have just embarked upon, and yes, my code of conduct would embrace the new rules that have been established in the House—

The Acting Speaker: Yes, well now, Mr. Simons, I think we are getting somewhere. Continue.

Mr. Nelson H. Cole Simons: Mr. Acting Speaker, my point is that if we have a code of conduct for our Members of Parliament, for our Senators, we can eliminate some of the negative spirit that is [pervasive] in Bermuda in regard to how Bermudians think of their politicians.

Do you understand, Mr. Acting Speaker?

The Acting Speaker: Carry on, Mr. Simons.

Mr. Nelson H. Cole Simons: We must turn this negative feeling towards our politicians around if we want to sustain Bermuda's economic and social success. We must have a code of conduct that will foster public trust in our community and improve public perception of this House and its Members.

Mr. Acting Speaker, a code of conduct will assist Members in the discharge of their obligations to the House, as I said, and the constituents and the public at large. It will provide guidance notes for the conduct expected of our Members in discharging their duties. It will provide greater clarity for parliamentarians on expected and essential standards in public life. It will also provide transparency, by which Bermudians may measure the performance of their Members of Parliament.

The code of conduct will remind politicians that they are there to serve the public's interests and maintain the public's trust. They must also engender the confidence of the community. At this point, a lot of Members of Parliament are basically undermining their own confidence as far as what the community thinks of them as individuals, as politicians, and as party individuals. At the end of the day, we represent the people. And the people deserve the best representation, they deserve the best leadership, and they want to have people that they would like to emulate.

The behaviour that we have seen in this House and in the community with some of our Members of Parliament—and over the years both sides of the House—one questions, *How can you talk about being a role model for somebody to follow if you do not behave in the standards becoming of a Member of Parliament as a leader in one's country?*

[Inaudible interjection and laughter]

Mr. Nelson H. Cole Simons: Mr. Acting Speaker, you know, I have heard my colleagues on the other side say, "Well, we do not really need a code of conduct." But we have a history of demanding a code of conduct from industry, Mr. Acting Speaker. Government has a history of insisting that various industries have codes of conduct regulations.

I would like to go through some of the codes of conduct that governments have insisted [on] and put in place for various industries, if you will allow me, Mr. Acting Speaker.

The Acting Speaker: Yes, I will allow you, Honourable Cole Simons. In fact, I am rather elated that you are now getting down to something positive and material that we can grasp.

Mr. Nelson H. Cole Simons: Well, just hang on, because—

The Acting Speaker: We all sense the direction in which you wish to go.

Mr. Nelson H. Cole Simons: As I said—

The Acting Speaker: Carry on.

Mr. Nelson H. Cole Simons: —we can say we do not want to have a code of conduct in here and yet demand it from various sectors of the industry, because that would be hypocritical and is not sending the right message.

In 1999, the [inaudible] published a consultation paper outlining proposals to improve its Code of Conduct for investment providers. In 2000, the E-commerce industry faced a mandatory Code of Conduct under the then Minister Renee Webb, and the Code of Conduct outlined what was expected for anyone engaged in the E-commerce industry.

In November 2000, Government unveiled a Code of Conduct in sports, and this Code of Conduct provided guidelines for local athletes, administrators, coaches, parents, and spectators.

And Mr. Acting Speaker, again this is a Code of Conduct that was demanded by Government of the sporting industry. So I do not understand how, Mr. Acting Speaker, we can demand these codes of conduct for sports, for education . . . Minister Paula Cox insisted on having a code of conduct in the education

system for the parents, so that if their children were having problems, they could insist that the parents come here and work with the teachers, work with the students to get things done. Again, a code of conduct recommended and implemented by Government.

So, it is duplicitous that you ask various industries . . . you ask education to have a code of conduct, and yet we, in this House of Assembly, cannot have a code of conduct for its Members of Parliament in carrying out their duties within the community at large, within their constituencies, and also in the House. I know we have one in the House, but I am going beyond on what is in the House, Mr. Acting Speaker.

An Hon. Member: Where is it?

[Inaudible interjection]

Mr. Nelson H. Cole Simons: I will be getting to them. My colleague, Mr. Honourable Walter Roban, said "where is the code?" I am building up to the code, and I will bring an example. I have an example of the code that we can have.

An Hon. Member: Until 2:00 in the morning.

Mr. Nelson H. Cole Simons: That is right, and if it means staying until 2:00, I will be happy to stay.

An Hon. Member: Not us.

An Hon. Member: You will miss your plane, man.

Mr. Nelson H. Cole Simons: Mr. Acting Speaker, our code of conduct must be built on the following core principles—

[Inaudible interjection laughter]

Mr. Nelson H. Cole Simons: What are some of these core principles on which our code of conduct should be established? I will read some of that I found and thought would be quite relevant to Bermuda.

"Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties." A sound principle.

The Acting Speaker: Honourable Cole Simons, do we not have a Registry of Members Interests that supports that?

Mr. Nelson H. Cole Simons: I am getting to that, Mr. Acting Speaker. I will get to that. I am going through my principles and then I am going through to the Register of Interests.

So you are on the right track. All in time, Mr. Acting Speaker.

The Acting Speaker: Continue.

Mr. Nelson H. Cole Simons: I know it is getting late—

The Acting Speaker: I am trying to assist you, Mr. Simons.

Mr. Nelson H. Cole Simons: Thank you very much for your assistance. Thank you very much.

Mr. Acting Speaker, another core principle is, "In carrying out public business, holders of public office should make choices based on merit only."

"Holders of public office should take decisions based on public interests only."

"Holders of public office must have a duty to declare" and this goes back to your Member's interests "any private interest relating to their public duties and must take steps to resolve any conflicts that arise in a way that protects the public interest."

Okay, Mr. Acting Speaker, our code of conduct, as I said, from a purpose point of view, the purpose of a code of conduct should be, basically, to help Members discharge their obligations to the House, to their constituents and the public at large. The purpose should also be used, as I said earlier in my opening remarks, as providing guidance on the standard of conduct expected of Members in discharging their parliamentary public duties and so on.

As I said earlier—

An Hon. Member: Said earlier, yesterday.

Mr. Nelson H. Cole Simons: —the code of conduct should be open, accountable, and reinforce the public's confidence in the way in which Members of Parliament perform their duties.

We are all about, Mr. Acting Speaker, building confidence in the way that the community sees Members of Parliament performing and delivering on their duties.

Mr. Acting Speaker, Members have a duty to uphold the law, including general law against discrimination, and to act on all occasions in accordance with public trust placed in them.

Mr. Acting Speaker, as I said earlier, they must act in the interests of all of Bermuda, and not just a section of Bermuda. We hear a lot about, "We are looking out for people like us." Or we are, you know, we can be too interested in some other people. We have to act for all Bermudians. We have a special duty to act for all of Bermuda and our constituents.

Mr. Acting Speaker, these principles basically boil down to five things: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

The Acting Speaker: I suggest it is more than five—eight!

[Laughter]

Mr. Nelson H. Cole Simons: I am sorry.

Mr. Acting Speaker, as I said earlier, Members are expected to observe the rules of the House.

An Hon. Member: Yes!

Mr. Nelson H. Cole Simons: Mr. Acting Speaker, we have new Standing Orders, and, as I said, this code of conduct will work in tandem with the Standing Orders that are in place for the House. This Standing Order clearly defines Members' conduct in the House of Assembly.

So my code of conduct will complement this Standing Order based on what goes in the House of Assembly.

Are you with me, Mr. Acting Speaker?

The Acting Speaker: I am. I am trying.

Mr. Nelson H. Cole Simons: *[Laughs]* You are trying, Mr. Speaker. Remember, there is the House of Assembly, there is the constituency, and there is the community at large. So my code of conduct is not just for the House of Assembly, it is for three sectors—the House, the community, and Bermuda at large.

The Acting Speaker: Yes. I might recommend, Mr. Simons, that you come to the House with a draft, perhaps, to table; something that we can consider. Obviously, you are not just talking in this instance. I would suggest or recommend that you come with a draft.

Mr. Nelson H. Cole Simons: That will be coming, Mr. Acting Speaker.

The Acting Speaker: Thank you.

Mr. Nelson H. Cole Simons: Mr. Acting Speaker, as I said, one of the issues that we need to address is that we must not knowingly or improperly promote any matter or vote a bill or resolution in any form if there is a remote thought of remuneration, Mr. Acting Speaker.

An Hon. Member: That's right.

Mr. Nelson H. Cole Simons: Mr. Acing Speaker, we must do what is right based on principle, not for personal gain or benefit. And that is extended to the family as well.

An Hon. Member: What?

[Laughter]

Mr. Nelson H. Cole Simons: A number of people may make decisions based on the benefits to families or connected people. This type of behaviour should be enshrouded in the code of conduct, to make it clear that this type of behaviour will not be tolerated.

In fact, in other jurisdictions, their code of conduct says even if your business partner . . . if I am a Member of Parliament, and I have a law firm, and my business partner is involved in a government contract, then I need to make sure that this interest is registered and declare the interest of my firm that I am working for.

Mr. Acting Speaker, the other issue is that, again, in the code we should also record the fact that any information which we receive in confidence as Members of Parliament, that it remains in confidence. Like insider information; you cannot capitalise on inside information; information that we hear in our House committee, Cabinet Ministers in Cabinet meetings or any parliamentary sub-committee meetings. That information is private information, and should be treated as private information, and should be there for the best interests of the community and not for any economic gain—be it for your employer, be it for your business. The information should be kept inside and it should not be exploited for economic gain. We cannot have inside information benefiting a partner's or a Member's commercial interests.

So again, this should be written in legislation so it is clear, so there is no doubt, so there is accountability and so that everyone can say "this is a tight code of conduct," and the Members of Parliament, when the come to the House, they know what is expected of them, and there is no grey area. We have problems with behaviour. You know, we have to . . . *My behaviour may be unethical, but it is not illegal.* Do you see what I am saying, Mr. Acting Speaker? That type of behaviour is not acceptable. And we heard a leader of the country tell the people of this country, "My behaviour is not illegal, but it may be unethical."

The Acting Speaker: Mr. Simons, again, I must caution you. I believe that, as a result of a certain investigation, the investigator came to that conclusion, not the leader—

Mr. Nelson H. Cole Simons: Mr. Acting Speaker, I would like to correct you—

The Acting Speaker: I stand to be corrected, but I would suggest that you—

Mr. Nelson H. Cole Simons: Mr. Acting Speaker, this comment was made by the Premier on TV, for the nation to see.

Let's make that clear: The Premier said it on television himself. To me, those positions are not becoming of a leader of this country.

Imagine what message that sends to our young people, who look up to us as leaders and statesmen of this country. And when you get up and make those types of statements, it is like a blow to your stomach. For me, everyone in this room should have been ashamed when they heard the leader of this country say that on public television.

An Hon. Member: I did not hear it.

The Acting Speaker: Carry on, Mr. Simons. I suggest that you were batting on a better wicket a couple of hours before. Continue.

Mr. Nelson H. Cole Simons: Mr. Acting Speaker, the other issue that we need to address; the code of conduct should have some comment or some accommodation in there for receiving gifts, because all Members should declare and register gifts that they receive in carrying out their official duties.

I know that in the UK, if you receive a gift of £350 or more, you have to register that gift to a certain House committee. Again, we need to register our gifts.

[Ongoing inaudible interjections and laughter]

Mr. Nelson H. Cole Simons: The other issue that we need to also consider registering or declaring our interest is . . . from time to time, Members of parliament take second jobs. Again, we declare that in our interest book, Register of Interests, or when we are speaking on the Floor of the House, we declare our interest if we have a commercial interest and we are conflicted on a piece of legislation or a motion that had been carried.

The Acting Speaker: Under Register of Members' Interests, that is covered, Mr. Simons.

Mr. Nelson H. Cole Simons: I am just saying it needs to be enshrined in the general code of conduct, just so it is clear.

The Acting Speaker: Continue.

Mr. Nelson H. Cole Simons: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, again, Members (and I know this is simple) of the House of Assembly must cooperate at all stages of any investigation into the conduct or under the authority of this House. So, if there is an investigation or there is an examination of any issue in this House, Members of Parliament should be the first to raise their hands up and say, *I am willing to help, I am willing to present what information you need to make sure that the integrity of this House, the integrity of the positions that you serve are well preserved*.

So, Mr. Acting Speaker, as I said, my Motion is about Government. It is about integrity. It is about raising the bar for the performance of Members of Parliament in this country. We want to raise the perceived level of integrity, of how the people of Bermuda perceive us, because, if we are not honest, they do not think very highly of us. And we have nobody but ourselves to blame, Mr. Acting Speaker.

I am prepared to say, Mr. Acting Speaker, there is always room for improvement. There is always room for improvement. And, if we are honest, Mr. Acting Speaker . . . this gentleman . . . Mr. Acting Speaker, if he has something to say, he can get up and speak after I am finished.

An Hon. Member: The Honourable Member.

The Acting Speaker: Honourable Member, I do not know to whom you refer, Mr. Simons. The Honourable Member that you refer to . . . no doubt, whichever one to which you refer will have something to say if he wishes.

[Inaudible interjections]

Mr. Nelson H. Cole Simons: Mr. Acting Speaker, a Code of Conduct, as I said, for Members of Parliament, is a part of our plan to bring forth measures for better government for this country. In our view, this work of improving the governance, improving the trust of the people, starts with us.

A lot of people say, *Get rid of party politics, get rid of this adversarial.* In essence, what they are saying is [that this is] not serving this country well, because of the bickering, because of the racial slurs, and because of the lack of respect that we have for ourselves, the lack of respect that we have for our colleagues.

As I said earlier, when I painted the picture of things that happen in this House that led to the demise of how people feel about our parliamentarians, all results because we have shown very little respect for ourselves, our leaders have shown little respect for the rest of the team, our leaders have shown little respect for themselves. They have shown little respect for the country.

So, Mr. Acting Speaker, we must have a code of conduct so that standards can be codified, and Members can truly see what is expected of them, and they can be held accountable.

So, in closing, as I said earlier, our code of conduct must be based on selflessness, integrity, objectivity, accountability, openness, honesty, and good leadership must prevail.

Given our economic and social problems, we in this community must strengthen the integrity of

Government. The integrity of Government must improve with the elected representatives.

Mr. Acting Speaker, once we get it right up here, we can begin to funnel it down to the community. Because if they see us behaving in a manner that is respectful . . . as my colleague always said (and I am going to say it, because it paints the picture) "A fish rots from the head."

[Laughter]

Mr. Nelson H. Cole Simons: If we get it right from the top, if we show the community that we are respectful of each other, that we are here to do their business with integrity, with honesty and transparency, then they would come to us and say *Leaders, help guide us through these difficult times.*

And, Mr. Acting Speaker, that is why we need to have a code of conduct, so that we can demonstrate to the people of this country that we are serious about raising the bar, about raising the leadership that this country so rightly deserves. Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you very much, Honourable Cole Simons.

And I want to remind Members of the House that we are speaking to a Motion moved by Mr. Cole Simons that this Honourable House adopt a Code of Conduct for Members of Parliament in order to assist Bermuda's Parliamentarians in the discharge of their obligations to the House, their constituents, and the public.

Does any other Member wish to speak to this Motion as moved by the Honourable Cole Simons?

I recognise the Honourable Deputy Leader of the Government, Paula-Ann Cox *[sic]*.

Hon. Paula A. Cox: Thank you, Mr. Acting Speaker. It is Paula Cox, actually.

That this Honourable House adopt a code of conduct for Members of Parliament in order to assist Bermuda's Parliamentarians in the discharge of their obligations to the House, their constituents, and the public.

Mr. Acting Speaker, I have listened to the Honourable Member, who is the mover of this Motion. And I think that it is important for us as legislators, as we consider this issue, that we remember that no legislator has the right to place himself on a pedestal in proclaiming the need for broad political changes.

And I think it is also important that as we talk about regulations and the fact that we are moving towards a very much more regulatory state, that we already have in place a Register of Members' Interests, you have a Ministerial Code of Conduct, you have the Standing Orders of the House, and, Mr. Acting Speaker, you also have the various Whips, because it talks about discharging of their obligations to the House, their constituents, and the public. I would suggest that you already have some control mechanisms and some control levers already, in terms of without having to go to a much more harder regulatory form.

You have the public, in terms of that is the pact with the people by voting and being elected. In terms of the House, you certainly have the Rules of the House, you have the Register of the Members' Interests; you also have the Standing Orders. Though we have not talked about Ministers, there is a Ministerial Code. And, of course, in terms of the parties, each party has a whip and also has a process in terms of discipline within their party.

I think we have to be very careful. I would have been much more impressed if the focus was on how we can have more engagement in terms of with the public, as opposed to talking about just having a code of conduct. Because I would say that you already have in place sufficient tools and instruments—which are already in existence—that provide the parameters for how Members of Parliament should behave.

And I think that, at this stage when we talk about . . . you do not just have . . . we talk about it even in terms of financial services. The focus is not just about having more regulations; it is about having intelligent regulations.

Now, where the Honourable Member, who speaks for the Opposition, and the Government have no disagreement, is that clearly there is a need for standards. Clearly there is a need for openness, and clearly there is a need for people operating in a proper manner. I think that we have to also appreciate that amongst the checks and balances, do not let us underestimate or undersell those institutions that we already have.

Early this morning you heard the Acting Chair for the Public Accounts Committee submit a report. That is a key part of the sort of accountability mechanism for the Government and also for the people.

And I think that we act sometimes, when we come up here, we posit things as if . . . I am sorry, Mr. Acting Speaker, I keep getting this, I do not know, being sanctified by holy water.

The Acting Speaker: It is condensation.

[Laughter]

Hon. Paula A. Cox: I do not know that we need a code of conduct for some of these, what we have here.

The Acting Speaker: It is condensation from the air conditioning system.

Hon. Paula A. Cox: I do not know. It certainly is not a halo I guess. In any event—

[Laughter]

The Acting Speaker: You were baptised with holy water.

Hon. Paula A. Cox: Let me indicate that I think that we have a fairly robust system of controls, and I think we have to be very careful that just saying we have pieces of paper does not mean that that, in and of itself, makes for better regulation.

What we have to do is to use what we have, and use it more robustly. That is what we have. What we have can work. That is what we have. We have the Register of Members' Interests, we have the Ministerial Code, we have a number of issues already that work. And I think that the Honourable Member who talks about adopting a code of conduct . . . I liked your idea.

If that is really what that Honourable Member is genuinely interested in, then it might be useful to have had a draft code prepared and presented as part of his Motion submitted for consideration. I think that you do not just have paper for the sake of it. It is really about how you are prepared.

In terms of ethical governance, we have already the mechanisms, and we have to realise that. And I think just talking and saying that you want to come up here and you want to politic and say "we want to have a code" when there are mechanisms available, I think it is gilding the lily.

So, Mr. Acting Speaker, I have heard the Honourable Member, I hear that he is talking about adopting a code of conduct, and I would respectfully suggest that there is no need at this stage for the House to adopt a code of conduct given the existing mechanisms that exist as part of a control.

[Desk thumping]

The Acting Speaker: Thank you very much, Honourable Deputy Leader Paula A. Cox.

At this point, I would wish to ask if any other Member wishes to speak to this Motion.

I do recognise the Honourable Mr. Crockwell.

Mr. Shawn G. Crockwell: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, certainly as we read the Motion as drafted on the Order paper, that this Honourable House adopt a Code of Conduct for Members of Parliament in order to assist Bermuda's Parliamentarians in the discharge of their obligations to the House, their constituents, and the public, certainly, as we read the Motion we see nothing wrong, Mr. Acting Speaker, in improving the conduct of Parliamentarians.

Certainly, we have a responsibility to set the pace and provide the guidance and be role models for the rest of the country. I do no know if we are going to be voting on the concept of considering a code of conduct, I do not believe that the proposer of the Motion has put forward, actually, a codified code for us to consider today. But we certainly support anything that will augment and improve our behaviour in the House, demonstrating to the community that we are going to set the bar high.

The Honourable and Learned Member who just took her seat has stated that there already exist sufficient rules and regulations and that we should ensure that those are enforced. I certainly support that sentiment as well, Mr. Acting Speaker. But, certainly, we will be interested in seeing something more tangible in terms of what type of code is being proposed.

But, in terms of the concept as stated in the Motion, we are indeed in support. Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you very much, Honourable Mr. Crockwell.

Does any other Member wish to speak to the Motion? I recognise the Honourable Trevor Moniz. Carry on, Mr. Moniz.

Hon. Trevor G. Moniz: Thank you, Mr. Acting Speaker.

After having heard my Honourable colleague, Mr. Simons, and the Deputy Leader of the Government, together with the BDA Representative, I would like at this time to move that we rise and report progress, we rise until another day, and then perhaps my Honourable colleague could take under advisement bringing forward some concrete suggestion of a draft code, if that meets with Members' approval.

The Acting Speaker: Thank you, Honourable and Learned Mr. Moniz.

Before I go back to the mover of this Motion, I ask if any other Member wishes to speak to the Motion.

And in the absence of that, I would ask the Honourable Member, Mr. Cole Simons, to take under advisement that the House rise and report on this Motion and not take a definitive vote at this time. That is my recommendation. How say you, Mr. Simons?

Mr. Nelson H. Cole Simons: Thank you, Mr. Acting Speaker.

Having heard the comments from the Deputy Leader of the country, and my team and BDA, this is a work in progress, and we are not going to get it done right away, Mr. Acting Speaker.

So, as a consequence, we are prepared to rise and report progress, and at some point come back with a code of conduct that can be examined by this House, so that we can get it right and work together in raising the level of service that we provide to our community.

The Acting Speaker: Thank you very much, Honourable Cole Simons.

For the edification of the listening public, on the Motion moved by Mr. Cole Simons, that this Honourable House adopt a Code of Conduct for Members of Parliament in order to assist Bermuda's Parliamentarians in the discharge of their obligations to the House, their constituents, and the public, Mr. Simons has, upon advisement, asked that the House rise and report progress on this Motion, and we do so at this time.

All those in favour, say aye.

AYES.

[Gavel]

The Acting Speaker: The ayes have it.

Thank you.

[Motion to rise and report progress carried]

The Acting Speaker: At this point, we ask for the Third Reading . . . Minister, would you assist me in this reading?

SUSPENSION OF STANDING ORDER 21

Hon. Michael J. Scott: Yes sir, if I may. It will be the Third Reading, sir, with your leave, of the Parental Responsibilities Act, 2010.

Sir, I move that Standing Order 21 be suspended to enable me to move that the Bill entitled The Parental Responsibilities Act, 2010, be now read a third time by its title only.

The Acting Speaker: So moved, carry on, Mr. Minister.

THIRD READING

PARENTAL RESPONSIBILITY ACT 2010

Hon. Michael J. Scott: The Parental Responsibility Act, 2010. Mr. Acting Speaker, I move that the Bill do now pass.

The Acting Speaker: Any objections to the [Third] Reading of The Parental Responsibility Act, 2010?

[Gavel]

[Motion carried: The Parental Responsibility Act, 2010, read a third time and passed.]

SUSPENSION OF STANDING ORDER 21

Hon. Michael J. Scott: Mr. Acting Speaker, continuing under Standing Order 21 and its suspension, I move for your permission to move that the Bill entitled The Court of Appeal Amendment Act of 2010 be read a third time by its title only.

The Acting Speaker: Carry on, Minister.

THIRD READING

COURT OF APPEAL AMENDMENT ACT 2010

Hon. Michael J. Scott: Mr. Acting Speaker, The Court of Appeal Amendment Act of 2010, I move that that Bill do now pass.

The Acting Speaker: Yes. So moved.

[Gavel]

[Motion carried: The Court of Appeal Amendment Act, 2010, read a third time and passed]

The Acting Speaker: I now recognise the Honourable Walter Roban, Minister of Health.

SUSPENSION OF STANDING ORDER 21

Hon. Walter H. Roban: Thank you, Mr. Acting Speaker.

I move that Standing Order 21 be suspended to enable me to move that the Bill entitled the Bermuda Immigration Protection Amendment (No. 2) Act 2010 be now read a third time by its title only.

The Acting Speaker: So moved.

Carry on, Minister.

THIRD READING

BERMUDA IMMIGRATION PROTECTION AMENDMENT (NO. 2) ACT 2010

Hon. Walter H. Roban: I move now, Mr. Acting Speaker, that the Bill do now pass.

The Acting Speaker: So moved.

[Gavel]

[Motion carried: The Bermuda Immigration Protection Amendment (No. 2) Act, 2010, read a third time and passed]

The Acting Speaker: I now recognise the Honourable Deputy Leader Paula A. Cox.

SUSPENSION OF STANDING ORDER 21

Hon. Paula A. Cox: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, I move that Standing Order 21 be suspended to enable me to move that the Bill entitled The Companies Amendment (No. 2) Act 2010 be now read the third time by its title only.

[Gavel]

The Acting Speaker: So moved.

THIRD READING

COMPANIES AMENDMENT (NO. 2) ACT 2010

Hon. Paula A. Cox: Mr. Acting Speaker, Companies Amendment (No. 2) Act 2010, I move that that Bill do now pass.

Thank you.

The Acting Speaker: Passed. Agreed to.

[Gavel]

[Motion carried: The Companies Amendment (No. 2) Act, 2010, read a third time and passed.]

The Acting Speaker: Are there any other motions to be moved at this time, any other bills?

That is the end of the Orders. I now ask for the Honourable Deputy Leader of the House.

ADJOURNMENT

Hon. Paula A. Cox: Mr. Acting Speaker, I move that the House do now adjourn.

The Acting Speaker: So moved.

Does any Member wish to speak on the Motion to adjourn?

I recognise the Honourable Mr. Tucker.

Carry on, Mr. Tucker.

Mr. Darius D. M. Tucker: Good evening, Mr. Acting Speaker.

Mr. Acting Speaker, I rise—

An Hon. Member: It's morning!

Mr. Darius D. M. Tucker: It is morning.

[Inaudible interjection]

EXCLUSIVITY OF VENDORS AT CUP MATCH

Mr. Darius D. M. Tucker: I should be, but unfortunately I am here, and I am doing what I have to do.

Mr. Acting Speaker, I rise this morning because I am quite disturbed as being a lover of Cup Match. I am a true and sincere lover of Cup Match and of Cricket, and I am a St. George's fan. And one thing, Mr. Acting Speaker, is that in this country we have some things that are considered to be heritage and tradition. And I also believe in the fact that as time goes on, we do some new things, and we should get more innovative, and we should change with the times.

But I honestly do not believe the time has arisen where clubs should be dictating where people shall purchase goods—namely, alcohol, juice boxes, ice, and things of that nature.

One thing is that, if we are talking about security and things of this nature and the cost of Cup Match and what it costs to operate, than that is fine. I can live with these costs that do come with holding such a major event. But, Mr. Acting Speaker, I do not feel to myself that in the best interests of the country—and Cup match, period—that we should be allowing one person to be selling these goods, or one organisation.

What happens to these other stores around the country, where this money can be spread around? Because I am sure that there are quite a few stores that are anticipating their sales going up, during this period of time—with the amount of money that is in circulation in cash at that point at Cup Match. And I think it is unfair and selfish for them to try to burden the people that choose to come to Cup Match.

Now, Mr. Acting Speaker, I am one of those people that leaves home at 4:00 or 4:30 in the morning and goes—yes, the car is loaded I can guarantee you that. Right?

[Inaudible interjections and laughter]

Mr. Darius D. M. Tucker: Mr. Acting Speaker, I go . . . and my son, he loves Cup Match, and he comes with his father. I go stand to the gate and wait patiently for 6:00 because I want to get my public seating. Very patiently.

[Inaudible interjection]

Mr. Darius D. M. Tucker: Can't afford one. But anyway . . . and I wait patiently for that gate to open.

And there are people that I see every year (and I only see them once a year). And I see them at that hour in the morning, and we have our talks and we just wait patiently for the sun to rise. And we get angry when the gates do not open up at 6:00. Now look, you tell me 6:00; 6:00 is 6:00. This is Cup Match.

Now there are very few people that are going to beat us to our spot. Right? But, you can guarantee that the people that come to Cup Match at that hour, or 7:00 or 9:00, are not coming to disrupt Cup Match. And I do not believe that the innocent should suffer for the guilty.

[Inaudible interjections and laughter]

Mr. Darius D. M. Tucker: And, Mr. Acting Speaker, the people that are causing the issues at Cup Match need to be dealt with.

If they are talking about bottles being taken up and hurled, and causing violent acts that happened inside—those bottles came from inside a club and they came from a trash area. They did not come from anyone who was in a tent, a stall, or anywhere else.

And people that do have tents and stalls do not have the liquor in the back. They have it their centre, in their coolers, and whatever. They have come to watch Cup Match; they do not come to disrupt it. For this organisation to feel that they should control Cup Match to that magnitude is very selfish.

Right?

It is very selfish. And I think that it is wrong and I do not think that it should be allowed.

But something I do think is that, if they want to have a say and they want to raise more money, then maybe the two clubs can get together, and even if they sought some Members of Parliament to bring an Act, and licence Cup Match . . . let the word "Cup Match" belong to them. So, anybody that wants to advertise with "Cup Match" would have to pay a fee.

Yes. Because if it belongs to them . . . the eastern counties belong to the eastern counties, the western counties belong to the western counties. Right?

But what I am saying is that because we have people that advertise and they use "Cup Match." Right? They go around selling shirts. They do all different types of things. Anybody could go print up a thousand shirts and go sell the shirts for five dollars. Right? Those are some of the things that I have a problem with.

Now, Mr. Acting Speaker, if someone comes to the gate of Cup Match in the heat of the summer with a hooded jacket on, and a long pair of pants . . . something must be an issue. I mean, we have metal detectors, they secure the grounds beforehand, they bring in dogs, and they bring in metal detectors and search all the stalls and all those types of things to make sure that nothing is buried on the grounds and they secure the grounds about a week before and they just continue to do these things.

And with all the money that these various entities have in terms of Bermuda Police Services and the tools that we have, I feel to myself we can secure the grounds of Cup Match. We just need to make sure we do the right things. And if the Bermuda Police Service tells us that they have an idea who these individuals are that are causing these problems, then they need to deal with these individuals when they come to the gate—if they have and idea they need to deal with them at the gate.

I do not see why I should not have the right to bring alcohol into Cup Match. Right now, if I choose to go to Cup Match, I have sufficient alcohol at home. I do not have to buy any alcohol to go to Cup Match. I have sufficient at home that I can take to Cup Match to entertain my friends if they choose to come to my public spot. You know? And I mean there is an Honourable Member that came to my public spot last year quite often, because he enjoyed something that I made. He thoroughly enjoyed it. You know?

[Inaudible interjections and laughter]

Mr. Darius D. M. Tucker: So, Mr. Acting Speaker, I say this because there are certain things that are tradition, and there are certain things that we should follow. Now, I do not have a problem if the clubs want to say you can only bring a certain size cooler in. I do not have a problem with that. Because the size of some of these coolers that these fellows bring in . . . I can tell you what, those are massive things. Right? As those from St. David's Islands would say: "the *Girt*."

But I could also tell you that those people that choose not to bring coolers into Cup Match, they will go to the various different entities that sell alcohol, and they will buy their alcohol from those entities. Some people just say, *Well, I do not know anybody down there*. And then you have some people that just come to Cup Match just to gamble. That is what they choose to do. They go to Crown and Anchor and they stay there for about three or four hours, and then they leave.

You have some people that come to Cup Match late in the day, they come get their conch stew, their order of fish, and they go. And they still pay the $20, $25, whatever it costs to go into Cup Match.

So these are things that are a part of Cup Match, and are very important parts of Cup Match. And it is something that we should continue on, because I do not feel we have gotten to the age where we have to go as far as it is being proposed by a particular club this year.

Hmm?

[Inaudible interjection]

The Acting Speaker: Carry on, Mr. Tucker, you are going on a good line in length, as they would say. Continue.

Mr. Darius D. M. Tucker: Thank you, Mr. Acting Speaker.

Well you see, some people feel that I have made my point. Do you know why? Because they do not enjoy Cup Match. When something is passionate to you, you should speak about it. And Cup Match is passionate to me. And until you have that love you would not understand. You know? You just would not understand.

But what I will say here is that that very Honourable Member . . . his company helps to sponsor for

the Family Centre. Right? So, what I am saying is, is it just a publicity stunt for Cup Match? Or do they make a donation towards Cup Match to the clubs, to help them, to assist them to build facilities, to help them improve the fencing?

So, you know, it is a big thing. So, we cannot pick and choose what we are going to do, and what we are going to choose. It is not about what just looks good on the face. Right? Because, eh, when it comes to Cup Match—

[Inaudible interjections]

Mr. Darius D. M. Tucker: No. It is not a matter of being self righteous, Honourable Member. It is a matter of looking at the principle involved with the situation, and that is what is key. You know? So, and we all have what one would say our pet peeves. And then we deal with our pet peeves accordingly. You know?

[Inaudible interjection]

Mr. Darius D. M. Tucker: Well, some of us that can afford to go on the boat do. Some people even go all day. But I will say this here: for Somerset Cricket Club to want to charge people for their alcohol, for their juice boxes, for ice, I think is very selfish. And then to top it off, if I drink a half a bottle of liquor I cannot have that half a bottle the next day—I must now purchase another bottle. You know? Is that fair? You know, is that fair?

An Hon. Member: My, my, my, my, my.

[Laughter]

Mr. Darius D. M. Tucker: Is that fair?

If I choose to have certain things . . . and if what they do not have on their list, well, that is it, you cannot bring it to Cup Match? That is not right. You know? That is not right.

The next thing they are going to tell us is that we cannot bring food in. The food vendors do very well down there. You know? In spite of the amount of potato salad, chicken, spareribs and everything that comes. The food vendors still do well.

[Inaudible interjections and laughter]

Mr. Darius D. M. Tucker: And, Mr. Acting Speaker, if we get to the point where it is necessary that we have to get those x-ray scanners, right?, that things can just wheel right along thru and it makes the process faster, then that would even break down the security because the amount of people that go thru your coolers and are pulling everything out and are opening up your tops. They search your bags for knives and stuff . . . which is fine.

The people that come to Cup Match at that hour in the morning, they do not have knives in their bags. Their Cassava pies are already cut up—everything is done. They are just ready to go and enjoy Cup Match.

An Hon. Member: You have to have a knife for melons.

Mr. Darius D. M. Tucker: No, no. Cut the melon early.

People that come to Cup Match know what the rules are, and they cut their melon early—plain and simple. That is what happens.

Everyone that has a stall, they know what the procedures are. When it comes to dealing with the certain things that they have to deal with, they secure their knives. So those are not issues. You know?

Mr. Acting Speaker, I just want to say thank you.

The Acting Speaker: Thank you very much Honourable Tucker.

Does anyone else wish to speak on the Motion to Adjourn?

I recognise the Honourable Minister Blakeney.

Carry on.

Hon. Glenn A Blakeney: Thank you.

I realise the hour is late, Mr. Acting Speaker, but it would be remiss of me not to stand and just make the point that even though it is early in the morning and there are a number of us who have made light of some of the points that have been saliently made by the Honourable Member that just took his seat, a lot of what he said makes sense.

We have to be careful about possibly going down a very slippery slope, especially with regard to tradition versus commercialisation, and the sincere endeavour of the clubs to protect those who would go to Cup Match out of the tradition of celebrating emancipation, if you are going to look for freedom in celebrating tradition and what the significance of that wonderful game is in commemorating a part of our indigenous history, as far as sports is concerned, relative to the evolving of a free society—and, virtually, a democratic society as we have come through over the past 400 years.

Now, there are a couple of things that I think I would like to make mention of. This commercialisation is one thing, the security is another thing, and then you have the tradition. The Honourable Member spoke, I think, on all three of those areas—and we really have to be careful. I do not think that it is prudent to endeavour measures that end up being overkill over time and actually could end up impacting the gate receipts and those that would otherwise go to Cup Match to enjoy the tradition that is Bermudiana.

With regard to the public purse, I know Works and Engineering, as well as the Department of Youth and Sport, have invested in assisting the clubs with regard to security—the fencing as well as the walls that were compromised to a degree and needed maintenance. This government has met the requests, I believe to the satisfaction of Somerset Cricket Club, in helping to secure to their grounds.

So, with that in mind, it could be deemed a bit of overkill relative to the commercialisation. Because, in essence, that is what it really is. I am not against the club enjoying the benefit of exploiting an opportunity, but when it is involving a private enterprise on an exclusive basis, I do have some concerns. Because, like the Honourable Member said, "What is next?" Is it going to be the concessions for food? Or the concessions for other paraphernalia, such as those little kids that like to get all of the kinds of toys and stuff that are available by entrepreneurs.

I mean, where does it go from here? I think we need to be very, very careful in that consideration, because it could go against the very spirit of what we are celebrating—which is freedom!

If you are not free to do some things that have been tradition since time immemorial, it is something to really consider. If you are using a rationale based on the climate relative to the dysfunction in the community and what has been experienced at the club last year, it is a serious consideration for the club on the one hand relative to security. I think those measures could have been put into place without, in my opinion, going to the length that it seems the club is going with regard to the exclusivity of a private enterprise. Right?

I think the people will vote with their feet and their pocket if they feel aggrieved with regard to insensitivity that I have heard articulated on talk radio and just among the general population. I am hoping that the clubs are not going to shoot themselves in the foot with this particular initiative—because it was fast and furious upon the general public. It was not something that immediately after Cup Match last year that there was a think tank, a thought process, a rationale and then a public dissemination of what was being intended from a public relations exercise jointly. You know? It might be a little unfair to St. George's with Somerset out front taking the lead.

If it is something that is going to be a consolidated effort to the degree that both clubs have agreed and are in accord, then that should be articulated where both presidents of the clubs come forward and say, you know, *This is an initiative that we can expect to incur over time. This is why.*

I think the people may be a little bit more receptive with regard to the considerations given to securing their own personal safety, because there is no two ways about it. Those who might have a criminal mind, are not stupid and nor are they naïve. And there are so many ways to get into both of those cricket clubs, because they are not totally secure. If people really want to get in, with whatever they are going to be carrying to cause any disruption—as the Member alluded to—those club facilities and the perimeters are not completely foolproof.

I would have thought that CCTV would be adaptive. I think, in Somerset this year that might be one of the measures being taken. However, I think it is something that should not be made light of.

I do understand the concern of the Member, who just took his seat. I just wanted to say that in recognising that it is a serious issue with regard to what Somerset Cricket Club has as a responsibility in protecting the patrons that come to Cup Match, and also, from the traditional side, where the patrons feel that they do have some right with regard to access and taking the kind of goods that they would take into Cup Match.

I mean when you hear about ice and soft drinks . . . I mean, suppose people want to make a cool-aid drink, or lemonade or the like, or take water and carry their ice in to keep the water cool. You know? I just think it might be a bit of overkill. There might be a rethink and it may just be something for this year that only applies to maybe some of the beverages that would be carried into the annual tradition known as Cup Match.

Thank you, Mr. Speaker.

The Acting Speaker: Thank you very much Honourable Mr. Blakeney.

Does any other member wish to speak or move to adjourn?

The House stands adjourned until July 16th at 10:00 am.

[At 12:55 am (on 10 July 2010) the House stood adjourned until Friday, 16 July 2010, at 10:00 am.]

BERMUDA HOUSE OF ASSEMBLY

OFFICIAL HANSARD REPORT
16 JULY 2010
10:00 AM

Sitting Number 29 of the 2009/10 Session

[Hon. Stanley Lowe, Speaker, in the Chair]

PRAYERS

[Prayers read by Hon. Stanley Lowe, Speaker]

CONFIRMATION OF MINUTES
2 JULY 2010

The Speaker: The Minutes of the 2nd of July have been circulated. They should be in Honourable Members' seats or on Honourable Members' desks. And the Minutes for the 9th of July are being deferred.

Is there any objection to the Minutes of the 2nd of July?

Agreed to.

[Motion carried: Minutes of 2 July 2010 confirmed.]

MESSAGES FROM THE GOVERNOR

The Speaker: There are none.

ANNOUNCEMENTS BY THE SPEAKER OR MEMBER PRESIDING

APOLOGIES

The Speaker: I just wish to announce that the Government Whip, Ms. L. Foggo, and the Opposition Whip, Mr. N. Simons, are attending a conference in Canberra, Australia; and the Honourable Member, Mr. A. DeVent from Pembroke South East, and the Honourable Member, Mr. C. Swan from Southampton West Central, are Acting Whips today.

MESSAGES FROM THE SENATE

JOINT SELECT COMMITTEE THAT WILL EXAMINE SOCIAL CAUSES OF GANG AND GUN VIOLENCE IN BERMUDA

The Speaker: I have the following message:

To: His Honour the Speaker, Members of the Honourable House of Assembly:

The Senate has the honour to inform your Honourable House that having had under consideration a motion calling for the appointment of a Joint Select Committee that will examine the social causes of gang and gun violence in Bermuda and will recommend solutions for addressing these concerns, and in light of the House of Assembly's earlier approval of the appointment of a Parliamentary Select Committee to inquire into the same issues;

The Senate has today RESOLVED That a message be sent to your Honourable House respectfully requesting that Representatives from the Senate be joined with Members of the said House Select Committee to form a Joint Select Committee to operate on the same terms of reference as those approved by your Honourable House.

The Honourable Senator, Honourable Carolanne M. Bassett, JP, President of the Senate.

[Hon. Dame Jennifer Smith, Deputy Speaker, in the Chair]

PAPERS AND OTHER COMMUNICATIONS TO THE HOUSE

The Deputy Speaker: I recognise the Honourable Premier Dr. Ewart Brown.

Mr. Premier, you have the floor.

CONSTITUTION OF BERMUDA CONSTITUENCY BOUNDARIES ORDER 2010

~and~

STATEMENT OF REASONS FOR MODIFICATIONS TO REPORT OF CONSTITUENCY BOUNDARIES COMMISSION

Dr. the Hon. Ewart Frederick Brown: Thank you, Madam Deputy Speaker.

I have the honour to attach and submit for the consideration of the Honourable House of Assembly the following draft Order proposed to be made under section 54 of the Constitution, the Constitution of Bermuda Constituency Boundaries Order, 2010.

I also, Madam Deputy Speaker, have the honour to attach and submit for the consideration of the Honourable House of Assembly the Statement of Reasons for Modifications to the Report of the Constituency Boundaries Commission proposed in the Constitution of Bermuda Constituency Boundaries Order, 2010, pursuant to section 54(4) of the Constitution of Bermuda.

The Deputy Speaker: Thank you, Mr. Premier.

Do you have a further report or statement?

All right. It is written here, the Statement of Reasons for Modification of the Report.

Okay. Thank you.

PETITIONS

The Deputy Speaker: There are none.

STATEMENTS BY MINISTERS AND/OR JUNIOR MINISTERS

The Deputy Speaker: I recognise the Honourable Premier, the Honourable Dr. Ewart Brown.

Dr. Brown, you have the floor.

DRAFT ORDER FOR APPROVAL OF RECOMMENDATIONS OF CONSTITUENCY BOUNDARIES COMMISSION FOR BERMUDA

Dr. the Hon. Ewart Frederick Brown: Thank you, Madam Deputy Speaker.

I am pleased to advise this Honourable House that I will table this morning a draft Order for approval and ultimate execution by His Excellency the Governor giving legal effect to the recommendations of the Constituency Boundaries Commission for Bermuda.

Madam Deputy Speaker, Honourable Members will be aware that the Commission was appointed by the Governor in June of 2009, and made its recommendations in a report submitted to this Honourable House in May of this year. Those recommendations have taken into account the factors set out in the Constitution, and have resulted in some alterations to the Constituency Boundaries in Bermuda.

The Commission was chaired by Dame Billie Miller of Barbados, with the Honourable David Jenkins, Chief Justice of Prince Edward Island, as its Judicial Member. Madam Deputy Speaker, Dame Billie brought to bear her considerable acumen in matters political and diplomatic, and convened a public meeting, as well as invited submissions from the general public on alterations to Bermuda's boundaries. I wish to thank those overseas members for their service.

Mr. Speaker, the members appointed on behalf of the two main political parties were yourself, Dame Jennifer Smith, and Minister Walter Roban for the Government, and Mr. E.T. Bob Richards and Senator Jeanne Atherden for the Opposition. These Members represented their parties well and are equally deserving of our thanks.

Honourable Members will note that the draft Order to be tabled for their consideration is accompanied by a Statement of Reasons for Modifications to the Report of the Commission. Madam Deputy Speaker, this Statement sets out the circumstances surrounding certain minor inaccuracies in the bound volumes prepared for the public and which are now corrected by this Order. The Statement is a requirement under the Constitution and is self-explanatory.

Madam Deputy Speaker, considerable reliance on technology greatly assisted the work of the Commission. And I wish to thank the staff of the Parliamentary Registry led by Mr. Randy Scott, Dr. Kevin Mayall, Consultant to the Commission, and Mr. Peter Hopkins, Senior Land Surveyor with the Ministry of Works and Engineering for their application to the task at hand.

In closing, Madam Deputy Speaker, permit me to observe that these modifications to the Constituency Boundaries for Bermuda, will take effect when next this House is dissolved and a general election called. As such, it is worth noting that these changes will affect me as a voter, but not as a candidate.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Premier.

The Chair recognises—

Dr. the Hon. Ewart Frederick Brown: No, I have another one.

The Deputy Speaker: I am sorry. I saw another Minister standing; I thought you were finished.

Dr. the Hon. Ewart Frederick Brown: Thanks for your indulgence, Madam Deputy Speaker.

The Deputy Speaker: The Premier has another statement.

RUMOURS AND MISINFORMATION ABOUT FUTURECARE

Dr. the Hon. Ewart Frederick Brown: Madam Deputy Speaker, thank you for your indulgence.

It has been said that a rumour can travel faster than the speed of sound, and misinformation even faster. Rumours and misinformation about FutureCare, as disseminated by the Opposition last week, exited the mouth of one Honourable Member and travelled throughout our community, creating uncertainty and unease among one of the most precious segments of our community, our seniors.

Madam Deputy Speaker, I am speaking in reference to the headline in the Friday, July 9th, *Royal Gazette,* entitled "Report Raises Concerns about FutureCare" and the comments made by the Honourable Member Mrs. Louise Jackson.

There is a significant difference between the mention of a "plan being viable," and making a statement regarding "the long-term viability of the plan." In mentioning FutureCare, the Bermuda Health Council was speaking in reference to the local demographics.

In this regard, they could not talk about the sustainability of our healthcare system without talking about our changing demographics and our ageing population. That discussion must include seniors and, correspondingly, that discussion must include FutureCare.

It is obvious, reading the consultation paper, that the issue referred to by the Health Council is the sustainability of Bermuda's healthcare system, and not just FutureCare. This is clearly evident when one notes in the paper, and I quote: ". . . the forecasted increase in the senior population over the next decade raises concerns about the long term viability of the plan."

The paper also notes, and I quote: "FutureCare is designed to cover seniors, the highest risk population, which leaves the healthier, younger, and lower risk individuals out of its pool, presenting a high burden and risk for the plan, and thereby benefiting private plans."

"Reforms proposed in the consultation paper seek to diversify private insurer risk pools to ensure all payers share an equal responsibility in financing health care for the population as it ages."

Madam Deputy Speaker, that last sentence in particular makes it clear that the issue is not the viability of FutureCare, but is instead the need for all players to have equal financial responsibility for the entire population. It would be foolhardy of any individual let alone the Government, to not consider the long-term viability of any of its funded programmes, especially in this economic climate.

Despite the misinformation spread by the Opposition, this Progressive Labour Party Government has good financial sense, and our attempts and their attempts to slant the meaning of the Health Council paper to suggest that FutureCare is not viable ignore the facts.

FutureCare has performed as planned, within budget, and provides for the needs of a key segment of our population. The Government is taking proactive steps to ensure FutureCase's long-term viability and sustainability. Some of these measures are built into the FutureCare plan design. Caps on certain benefits and cost sharing are just two examples.

Madam Deputy Speaker, we review the performance of FutureCare on a monthly basis and will enhance the plan, as necessary, to satisfy the needs of our seniors and to ensure that it meets its financial mandate. We must not be distracted nor lose focus on the intent of the Health Council consultation paper. FutureCare is but a few sentences in a chapter on population demographics. The focus of the paper is to set out a plan for the regulation of our health insurers, as one of the measures to ensure the long-term viability of our entire healthcare system.

Proposals are presented to address concerns of both this Government, the Health Council, and the Bermuda public regarding the present state of health insurance in Bermuda.

Madam Deputy Speaker, the Minister of Health, the Honourable Walter Roban, has stated that his Ministry is developing a health strategy for Bermuda. The regulation of health insurance is just one aspect of many reforms under consideration. This fall, the Minister intends to release to the public a consultation document on these proposals. Every modern jurisdiction is grappling with the rising cost of healthcare. Bermuda has the knowledge, expertise, and ability to address these matters. With the assistance of the Bermuda Health Council and the Bermuda Hospitals Board, the Ministry of Health and their overseas partners, this community can be assured that we have the answers to the healthcare issues before us.

Madam Deputy Speaker, Her Majesty's loyal Opposition gives us the impression that they want FutureCare to fail. They give the impression that they do not want this Progressive Labour Party Government to provide affordable healthcare for those who have laboured so hard and so long to build the Bermuda we enjoy today. Despite this, FutureCare will succeed, and our people will reap the benefits of a Government that wants its people to prosper in their golden years.

I encourage the public to seek out the truth for themselves, and not look to those who either do not know what they are talking about or who have been proven to be repeatedly wrong in the past.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Premier.

I am going to recognise the Honourable Minister Glenn Blakeney, who stood on his feet first earlier, and I will recognise the other Ministers as they catch my eye.

Minister Blakeney, you have the floor.

BERMUDA TO HOST CARIFTA GAMES EASTER WEEKEND 2012

Hon. Glenn A. Blakeney: Thank you, Madam Deputy Speaker, and good morning.

I rise today to inform this Honourable House and the people of the Bermuda that Bermuda will once again host the CARIFTA Games during the Easter Weekend of 2012.

[Desk thumping]

Hon. Glenn A. Blakeney: Bermuda was in contention with The Bahamas, which subsequently withdrew its bid, leaving the path clear for Bermuda's bid to be unanimously accepted.

Madam Deputy Speaker, Bermuda has been involved with CARIFTA since it began in 1972. We often hear of the founder, Austin Sealy's role in developing these outstanding games. However, Madam

Deputy Speaker, I take this time to acknowledge the roles and the vision of the following persons who assisted in the development of CARIFTA and ensured that Bermuda was involved at the ground level:

Madam Deputy Speaker, I am talking about none other than Mr. Earl Gabby Hart, the late Randy Benjamin, the late Clive Long, Mr. Charles Jeffers and Mr. Philip Guishard, to name but just a few. These gentlemen are to be praised for the sacrifices made to ensure that this little Island was given the opportunity to display its talents with the giants in the Caribbean region.

Madam Deputy Speaker, Branwen Smith, a daughter of the soil, won the first Gold Medal in the Shot Put in the Inaugural Games in 1972 in Barbados. Bermuda has hosted these Games in 1975, 1980, and 2004, respectively.

Madam Deputy Speaker, who can forget seeing Usain Bolt setting a junior world record in the 200 metres in a time of 19.93 seconds, which still stands today? The name of Bermuda will forever be associated with this giant in his field. Interestingly, Madam Deputy Speaker, Usain Bolt is the only non-Bermudian athlete whose picture hangs on the hallowed Wall of Fame in the halls of the Department of Youth, Sport, and Recreation. Time will tell who the next great athlete will be—perhaps one of our own young athletes!

At this time I will also congratulate former athlete, BTFA President Ms. Donna Watson, under whose leadership and vision the Track and Field Association has grown immensely, since assuming her tenure of presidency. We anticipate that having a large team competing in the 2012 games will ultimately benefit not just the athletes, but also our tourism sports product.

Madam Deputy Speaker, this Government will assist the BTFA to ensure CARIFTA Games in 2012 will be yet another success when hosted during the Easter Weekend of that same year, 2012.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Minister Blakeney.

I recognise the Honourable E. G. James, Minister of Education.

Mr. James, you have the floor.

Hon. Elvin G. James: Thank you, Madam Deputy Speaker.

I woke up one morning early this week to learn that Bermuda's education system—

[Inaudible interjections and general uproar]

The Deputy Speaker: And we are glad to hear that!

Hon. Elvin G. James: Thank you.

[Laughter]

Hon. Elvin G. James: To learn . . . Let me start over, Madam Deputy Speaker.

The Deputy Speaker: Yes, Minister. You have my attention.

BERMUDA'S EDUCATION SYSTEM AND PUBLIC SCHOOL STUDENTS BEING USED AS POLITICAL FOOTBALLS

Hon. Elvin G. James: I woke up one morning early this week to learn that Bermuda's education system and our public school students were once more being used as political footballs.

Some Hon. Members: Oh no!

Hon. Elvin G. James: That does not happen every day, no.

An Hon. Member: My, my, my, my.

Hon. Elvin G. James: The daily newspaper informed us that, and I quote, "Students in the public school system are allowed to graduate without having the minimum grade point average to get into American colleges and universities," unquote.

Amazing.

Madam Deputy Speaker, I had to read that paragraph several times. And I am still not sure what the daily was trying to say. Did they mean that the American universities were accepting our students even if the students did not qualify for entry? Were they trying to say that Bermuda's public school students have to meet the US university entrance requirement in order to graduate?

After reading the rest of the article, I decided that the daily was implying that we in the Bermuda Ministry of Education had lowered the standards which students must achieve in order to graduate from our senior school. The truth, Madam Deputy Speaker, is that we have not lowered our standards.

In November last year, I said that we were going to raise the bar. I said that I wanted to require students to have a GPA of 2 or better in order to graduate. But let me be clear, Madam Deputy Speaker. I said this in November 2009. And I am sure that you realise that the 2009–2010 school year started two months before, in September. There is no way that we could raise the standard for graduation in the middle of the school year.

So, for either the daily or the Opposition to express any kind of surprise that standards were not raised for this year's graduating class is disappointing, to say the least.

The requirements for graduation will become more stringent in the future. But they will not take effect until June 2011. Before students start school this September, they will know what the requirements will be for them to graduate with the Bermuda School Certificate (BSC).

Madam Deputy Speaker, I have to stress that, while the graduation requirements may have remained the same, it does not mean that the principals, teachers, and students at both CedarBridge and Berkeley have not been working to improve their results. Before I go any further, I want to make sure that I am not accused again of playing a numbers game at students' and parents' expense by explaining that the graduation results that I am about to give are based on those students who qualified for graduation at the end of June 2010. Some students, who may not have accumulated enough credits to graduate, are taking summer classes as we speak so that they can graduate later this year. Their achievements will be reflected in future graduation figures.

Madam Deputy Speaker, in September 2010, there were 113 BSC students at CedarBridge who were eligible to graduate at the end of the school year. Ten of those students started the year in S3 because they had not accumulated enough credits to move on to S4. And I am pleased to report that all of those students worked hard enough throughout the year to earn the credits they needed to graduate in June. The remaining 103 students started the year in S4.

Madam Deputy Speaker, of the 113 that started the year, 108, or 96 per cent, graduated in June. Of those who graduated, 15 per cent—yes, 15 per cent—had GPAs of less than 2. Sixty-five per cent had a GPA between 2 and 3. And 20 per cent had a GPA of 3 or higher. Overall, 85 per cent of those students who graduated had a GPA of 2 or higher, which was up by 1 per cent over last year.

At Berkeley, the results were similar. One-hundred and thirty students started the year at Berkeley with an opportunity to graduate in June. Of those, eight were S3 students who had moved on to S4 the year before. And again, all of those students earned sufficient credits to graduate.

Madam Deputy Speaker, 124, or 95 per cent of the students who started the year at Berkeley graduated in June. Of those, 16 per cent had a GPA of less than 2. Seventy-two per cent had a GPA between 2 and 3; and 12 per cent had a GPA of 3 or higher. Overall, 84.5 per cent of the Berkeley students graduated with a GPA of 2 or higher, which was up from 82 per cent the year before.

In summary, considering all graduates this year, 84 per cent had a GPA of 2 or greater. This was up from 80 per cent in 2009 and up from 72 per cent in 2008.

Madam Deputy Speaker, we must be doing something right, as the vast majority of the students who graduated from Berkeley and CedarBridge are going on to tertiary education at the Bermuda College or overseas. Those who are going overseas are going to some of the best universities, including Dalhousie, Mount Allison, Mount Saint Vincent, McGill, Brock, St. Mary's, the University of Kent, Teesside University, Temple, Barry University, Johnson & Wales, Clark University, Cambrian University, Georgia State University, and the University of Georgia, just to name a few.

So, Madam Deputy Speaker, I have to congratulate our students for their performance. They have worked hard, and they have done well. But am I satisfied with the overall results? No. And I do not think that any of us will ever be satisfied because we always want to see all of our students do better. We have to keep raising our expectations and our standards. We have to keep pushing. And we have to require more from everybody in education, including the students, teachers, principals and officers, and, of course, the parents.

But, you know, Madam Deputy Speaker, at some point, we have to stop using public education to try to score cheap political points. We have to all row in the same direction. We have to find positives in our results, and stop pulling our students down at every opportunity. We will do our part. We are moving forward with the new internationally recognised curriculum, and we are raising the bar on everyone. I just hope that everyone else will do the same.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Minister James.

Does any other Honourable Minister have a statement to make? The Chair recognises the Honourable W. H. Roban, the Minister of Health.

Minister Roban, you have the floor.

OPTOMETRISTS AND OPTICIANS REGULATIONS 2010

Hon. Walter H. Roban: Thank you, Madam Deputy Speaker.

I am pleased to rise and report that on the 23rd of June 2010 the Optometrists and Opticians Regulations 2010 were signed and have been published today. My honourable colleagues will recall that the Optometrists and Opticians Act 2008 was enacted in December of 2008, and repealed the original 1973 Act to now reflect modern vision care practises. The 2008 Act includes scientific and educational advancements that have had a significant impact on the mode and scope of the practise of vision care.

Madam Deputy Speaker, among other things, the Act permits optometrists to prescribe medication for conditions affecting eyesight. This is set out in a two-tiered licence system. The first tier covers the current level of practise for persons presently practising,

and the second tier covers those odd professionals with additional training who are permitted to prescribe therapeutic pharmaceutical agents.

I am pleased today to be able to enact these provisions for the benefit of the local community and those appropriately qualified vision care professionals. The Optometrists and Opticians Regulations 2010 does the following: Make provisions for the serving of notices; prescribe the number of continuing professional education hours; prescribe the manner in which medications are to be administered and prescribed; address how applications can be made to the Council for Registration; and regulate the procedure of the Council.

Madam Deputy Speaker, I wish to publicly thank the Optometrists and Opticians Council, who provided the proposals which constitute these new Regulations. I respect and value their input, and that all of our health professionals who provide us the necessary information to ensure their professions remain in line with current advances and best practise.

Madam Deputy Speaker, this represents delivery on yet another promise by the Ministry of Health to modernise local health professionals and ensure healthy well-being of our community.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Minister Roban.

Does any other Honourable Minister have a statement?

The Chair recognises Minister Zane De Silva, the Minister without Portfolio.

Minister De Silva, you have the floor.

MUNICIPALITIES REFORM ACT 2010

Hon. Zane J. S. De Silva: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, I am pleased to advise this Honourable House that today I will table the Municipalities Reform Act 2010. It would appear that the media, and even the Worshipful Mayor of Hamilton, seemed to attend my Parliamentary caucus—or they possess an uncanny insight into this matter, and to some extent have foreshadowed the tabling of this Bill.

[Inaudible interjections]

Hon. Zane J. S. De Silva: In any event, Madam Deputy Speaker, the introduction of this Bill today represents the fulfilment of a promise made in this Government's Speech from the Throne in 2008. Modernisation was promised, and that is what has been delivered in this Bill.

I will be the first to admit that there will be those who consider that this Bill does not go far enough. Still, others will consider it as going too far. Madam Deputy Speaker, this divergence of views is not unexpected and continues to be welcomed.

The people of Bermuda have been treated to an inappropriate, ill-considered, and even—

The Deputy Speaker: Minister De Silva, do we have copies of your Statement?

An Hon. Member: Or the Bill?

The Deputy Speaker: The Chair does not have a copy.

Hon. Zane J. S. De Silva: Oh.

Oh, okay. We can get those.

Okay. All right.

[Pause]

The Deputy Speaker: Thank you.

Continue, Minister.

Hon. Zane J. S. De Silva: May I continue, Madam Deputy Speaker?

The Deputy Speaker: Yes, continue.

But please, Ministers, copies are to be given to the Clerk prior to any making of statements.

Hon. Zane J. S. De Silva: Thank you, Madam Deputy Speaker.

The people of Bermuda have been treated to an inappropriate, ill-considered, and some say even vicious, and in many cases misleading, public relations campaign, compliments of the Corporation of Hamilton.

Madam Deputy Speaker, Honourable Members will have noted that this Government has not engaged in any counter-attack via the media, but has remained focused on the task at hand. To descend to the personal attacks that form the basis of this campaign would have proven a distraction from the real work.

Madam Deputy Speaker, in the course of his presentation to Cabinet in June this year, the Mayor of Hamilton indicated his Corporation's aims were:

1. making voting easier and accessible to all Hamilton residents;
2. eliminating privilege and increase accountability in the Corporations; and
3. modernising the Corporations' authority to reflect the realities of the modern era.

These are commendable aims, ones which in general are shared by the Corporations and the Government. How we approach these general principles and interpret them in this legislation will test our commonalities and our mutual commitment to genuine reform.

Madam Deputy Speaker, Honourable Members will see from the Bill that the criteria for voting in municipal elections are now proposed to mirror our national elections. The effect of this Bill will be to eliminate, once and for all, the last vestiges of the property vote that we recognised as flawed many decades ago.

A core national function is that of taxation. In a 21 square mile Island, there is no rationale for any tax structure other than the national one, which reflects the elected Government's policy. This Bill will also address this issue by ending the ability of the Corporations to levy those charges based solely on their ownership of the Island's ports.

On this point, it is important to emphasise two things, Madam Deputy Speaker. Firstly, the limited balance sheet of the Corporations evidences the importance of this revenue to their bottom line. Insofar as it is required to maintain functions and service levels, no prejudice will result from this change. The change is a matter of principle that is in fact honoured already in its practise. While the Corporation levies the fees and taxes, the collector of customs does the administrative collection. This practise has no place in modern democracy.

The second point to be made, Madam Deputy Speaker, is that these changes will take effect on 1st of April, 2011, to permit adequate preparation on both sides. Madam Deputy Speaker, in particular, much has been made of the balance sheet of the Corporation of Hamilton. The picture painted thereby is not a full story. And although accurate to an extent, it does not represent a full overview of the position. This Bill will require an independent audit of the assets, liabilities, income and expenditure of the Corporations within three months of the Act coming into force.

Madam Deputy Speaker, it is important to note that the Corporation's balance sheet will also be required to reflect the reality for most hardworking Bermudian families.

Land tax payments. This Bill ends, Madam Deputy Speaker, the historical exemption from the payment of land tax by the Corporations. For the avoidance of doubt, I wish to make it clear that not one comma, semi-colon, or full stop in this Bill affects the assets of the Corporations. Not one service provided by the Corporations is transferred to the Government. Madam Deputy Speaker, no jobs are affected, and no employee should be, or feel, threatened as a result.

Even language has been the subject of public discussion on this initiative. This Bill represents reform, in some areas repeal. But above all, it represents justice and equity. The modernisation that will result is desperately required. And if there is truth to the desire of some to work with this Government, this Bill provides a useful starting point for a round of meaningful discussion, free from the glare of the media spotlight, and unaided by full-page ads.

Madam Deputy Speaker, this Bill represents a promise made and a promise kept.

Thank you.

The Deputy Speaker: Thank you, Minister De Silva.

The Chair recognises the Honourable D. Neletha Butterfield, the Minister Social—no. Community Affairs and Social—Culture and Social Justice.

Hon. D. Neletha I. Butterfield: Rehabilitation.

[Laughter]

The Deputy Speaker: Rehabilitation. Thank you, Minister. Rehabilitate me on that.

MIRRORS PROGRAMME COACHING FOR SUCCESS, AND VISIONS AND DREAMS IN ACTION: "EACH ONE TEACH ONE"

Hon. D. Neletha I. Butterfield: Thank you, Madam Deputy Speaker.

I rise this morning to share with my honourable colleagues the launch of the Mirrors Programme Coaching for Success for middle school students. Madam Deputy Speaker, 50 students each at Whitney Institute and Sandys Middle Schools will have the opportunity to participate in a three-day intensive training programme with a focus on being successful in their educational development during the school academic year. Ten teachers have been trained between April and this current week to support the programme, and will continue training in late August and September.

Madam Deputy Speaker, the success experienced thus far with older students in the programme led to the decision to introduce a primary prevention component to build students' personal skills for success. The new programme is designed to engage our young people to make more use of the educational opportunities presented to them by raising their attainment, awareness, and potential in education.

This training component has a proven track record in the UK, with 85 per cent to 100 per cent improvement in behaviour in attitude, 50 to 65 per cent improvement in school attendance, and 95 per cent success rate in students improving their grades. We are looking for similar results as we pilot the programme in October 2010 through June 2011.

Madam Deputy Speaker, after students complete their three-day training, they will engage in weekly coaching sessions with trained education mentors for eight months, attend the mid-term follow-up session, and participate in a combined completion ceremony at the end of the school term. This ceremony will be designed to foster relationships across schools.

Madam Deputy Speaker, the Mirrors Programme continues to enhance our community through the elements of transformation, personal development, and performance coaching. Both middle school principals are excited about the opportunity and look forward to the programme in October. Parents have been engaged and are receptive to their children's participation. Students' applications are currently being accepted at the Mirrors office and will continue throughout the summer months.

This week, Mirrors is launching the Visions and Dreams in Action "Each One Teach One" volunteer recruitment campaign for education mentors 25 years of age and older. I encourage the community to participate in the new programme by becoming an education mentor for only 30 minutes each week. Training will be held from September 17th to 19th for Whitney Institute mentors, and October the 1st through 3rd for Sandys Middle School mentors. Please contact the Mirrors office at 294-9291 for more information and to apply to become an education mentor.

Madam Deputy Speaker, Mirrors is impacting our community by developing human potential. We are working on transforming our community one person at a time through primary prevention efforts, where we are maximising young people's potential in education.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Minister Butterfield.

I thought that was the end of our statements.

Do we have a copy of your statement, Minister Burgess?

Hon. Derrick V. Burgess, Sr.: I pass it on to the Clerk.

The Deputy Speaker: Thank you very much.

The Chair recognises the Minister of Works and Engineering, Minister Derrick Burgess.

Minister Burgess, you have the floor.

TYNES BAY WASTE-TO-ENERGY FACILITY RE-FURBISHMENT

Hon. Derrick V. Burgess, Sr.: Thank you very much. Thank you, Madam Deputy Speaker.

I rise this morning to provide for honourable colleagues an update on the refurbishment of Tynes Bay Waste-to-Energy facility and impacts that the refurbishment initiative is having in other areas of Bermuda life.

The Tynes Bay Waste-to-Energy Facility has been a feature on the Palmetto Road landscape since 1994, allowing Bermudians to perhaps forget the circumstances under which we disposed of municipal solid waste before the construction of the facility.

I refer to the time when most of us all had drum-style incinerators in our backyards. I refer to the time when mountains of garbage could be seen at Marsh Folly. The opening of the Tynes Bay Waste-to-Energy Facility allowed Bermuda to dispose of its waste in an environmentally acceptable manner, leading to a safer, cleaner, and more pleasant environment overall, the kind of environment that we have a right to expect in a community as sophisticated as ours.

Madam Deputy Speaker, there are two incineration streams at the facility, with provision made for the planned installation of a third stream. When the facility was designed it was anticipated that one stream would meet the community's needs, with the second stream to be held in reserve for use when the first stream was shut down for maintenance work or because of some malfunction. However, Bermuda's very successful economy has led to a huge increase in the amount of municipal solid waste during the last two decades with the result that both streams were required virtually from the plant's inception. Both streams are now operated on a regular basis in order to deal with the approximately 300 tons of municipal solid waste that are brought to the facility for disposal daily.

Madam Deputy Speaker, following the 16 years in operation, the Tynes Bay Facility is in need of urgent, major refurbishment. Since both streams are required to process all of the waste, and no alternative disposal facilities are available, it is necessary for the work to be carried out in two phases, one for each incineration stream. The Ministry of Works and Engineering has awarded two major contracts for the refurbishment work, one for the refurbishment of the combustion, furnace, and boiler facility; and the second for the replacement of the flue gas cleaning facility. Because of the very specialist nature of the work, the contracts were awarded to two specialist overseas companies, Industrial Contractors and Engineers (ICE) AG for the combustion furnace and boiler contract, and Elex AG for the flue gas cleaning contract, both from Switzerland.

Madam Deputy Speaker, phase one of the works, which comprises the refurbishment of incineration stream two, is scheduled to commence on the 9th of September 2010, and to be completed by the 31st of December 2010. The engineering for this stage of the refurbishment is substantially complete, and all material and equipment have been ordered and are in the process of manufacture and fabrication. The first shipment of steel for the electrostatic precipitators, part of the flue gas cleaning equipment, has been packed and is ready for shipment. All of the material and equipment are scheduled to arrive in Bermuda before the end of August, as scheduled.

Madam Deputy Speaker, phase two of the works is scheduled to commence installation in July

2011 and be completed by November 2011. Specialist tradesmen will be brought in for the majority of the installation, start-up, and commissioning work for phase one. However, consistent with the Government's commitment to offer employment opportunities to Bermudians where possible, in conjunction with the Ministry of Works and Engineering, the two subcontractors have subcontracted to local companies substantial elements of supporting work valued at approximately $5 million. The same kind of arrangements will be in place when phase two work commences in November 2011.

Madam Deputy Speaker, each stream will be shut down for a four-month period in order to allow for the installation of the new equipment and the general refurbishment of the facility, with contractual financial guarantees on both completion and quality. This arrangement has been put in place to minimise the amount of waste that will have to be stored. During each shut-down period, one stream will remain in operation, supplemented by a baling machine to prepare the excess waste for storage.

Madam Deputy Speaker, the baling machine takes the waste, shreds it into smaller pieces, and squeezes it into tight bales that are then securely wrapped, ready for storage. The bales are wrapped to eliminate odour from the waste material. The securely wrapped bales will then be transported from the Tynes Bay plant to a temporary storage location at Morgan's Point, Southampton.

Honourable Members will recall the short-term contingency plan, announced by the Ministry of Works and Engineering some two years ago, that recommended baling and the storage of bales off-site in lieu of the stockpiling of refuse in the tipping halls during plant outages. They will recall the fire that occurred at the Tynes Bay Facility in early 2008 when a fire occurred in the tipping hall adjacent to the refuse bunker.

The stockpiling of waste is a high-risk practice that makes quenching a refuse bunker fire extremely difficult, and, as such, the risk of an emergency plant outage rises significantly. The risk-filled practice of stockpiling waste is rendered obsolete with the presence of baling and shredding equipment.

Madam Deputy Speaker, Honourable Members will be aware that, during the past few weeks, unanticipated failures at the ageing Tynes Bay facility led to an enormous build-up of waste at the facility. The storage capacity there was soon exhausted, leading to the requirement that baling commence sooner than anticipated. Unexpectedly and alarmingly, the baling machine experienced failure also, with the regrettable outcome that we were forced to resort to landfill at Marsh Folly for about a week.

Honourable Members will be aware of the Government's position that landfill is the very last resort. In the recent case, there was no alternative. However, there was 100 per cent compliance with the conditions set out by the Environmental Authority in giving its permission for the landfill at Marsh Folly, including:

- only household waste to be landfilled;
- the presence of an inspector at the tipping face at all times of active waste disposal to remove any acceptable waste;
- the placement of a six-inch layer cover (mulch, wood chips, and/or clean fill) over the garbage at the end of each day; and
- every effort being taken to minimise the impact of noise, dust, and odours on residences, schools, and [businesses] in the area.

Madam Deputy Speaker, happily, we discontinued the landfill immediately upon the baling machine being repaired.

May I take this opportunity to thank the residents of the Marsh Folly area for their understanding during the period when the landfill was taking place? May I also take this opportunity to thank area Members of Parliament for their support during this period?

Madam Deputy Speaker, it was planned that the use of the baling machine and the storage of the bales at Morgan's Point would commence in September. However, the recent failure at the Tynes Bay Facility had led to the requirement that we store the bales at Morgan's Point pending a restart of the incineration process.

Again, may I take this opportunity to thank the residents of George's Bay Road, Sandys specifically, and the Morgan's Point area generally, for their patience and understanding for the inconvenience and/or noise experienced recently as trucks moved late into the night transporting bales from the Tynes Bay Facility to Morgan's Point for secure storage. We thank them also in advance for their understanding when the bales will be stored at Morgan's Point during the September-through-December phase-one planned shutdown at the facility.

Madam Deputy Speaker, immediately following the completion of the phase-one maintenance work, when the plant is back to normal operation, the bales will be returned to Tynes Bay Waste-to-Energy Facility, where they will be disposed of in the usual manner—that is, via mass burn. Each bale will be inspected for damage and, if damaged, repaired before it makes its return journey to the plant. It is expected that the bales will begin to be returned to Tynes Bay in January 2011.

Madam Deputy Speaker, when phase one and phase two works are completed, the Tynes Bay Waste-to-Energy Facility will once again operate efficiently, and enhancement works to increase the electrical power generation from four megawatts to eight megawatts, which are currently being engineered, will be implemented.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Minister Burgess.

Does any other Honourable Minister have a statement? If not, we will move on.

REPORTS OF COMMITTEES

The Deputy Speaker: I trust that Members will allow me to give a committee report from here.

Thank you.

FIRST OFFICIAL HANSARD OF BERMUDA HOUSE OF ASSEMBLY FOR SESSION OF MAY 7, 2010

Hon. Dame Jennifer Smith: Honourable Members, as promised in my previous report to the House on the 7th of May of this year, I can now state that we are within reach of creating our first official Hansard of the Bermuda House of Assembly.

[Desk thumping]

Some Hon. Members: Hear, hear!

Hon. Dame Jennifer Smith: You are also aware that the House and Grounds Committee has designated this summer session to harness this historic pilot project. On your chairs and for your attention today are your individual verbatim speeches made in the House on May the 7th.

Members, please read your passages and return them with any corrections.

Now, you are not allowed to rewrite what you said.

[Laughter]

Hon. Dame Jennifer Smith: You are allowed to correct anything that is incorrect. For instance, sometimes your accent may not have been understood and the word may be the wrong word. You may correct that. You may not rewrite.

They have been sent to you electronically. The House staff would prefer it if you return it electronically. But if you would like, while you are here today, to go over it *today* and hand it in *today*, we would be even more grateful. Okay? Thank you.

An Hon. Member: Without signing?

Hon. Dame Jennifer Smith: No, you have to sign it.

The House and Grounds Committee wishes to acknowledge the assistance rendered by the Hansard Steering Committee of Mr. Norris Ebbin, our IT Consultant, and the extensive work done in our behalf by the Clerk to the Legislature, Mrs. Shernette Wolffe.

We also would like to thank Mr. David Cunningham of Quest Limited. Members, you may have noted that he has been present just about every Friday. Also, our summer interns, Ms. Shawnette Brangman and Mr. Caleb Crockwell—as you have noticed, they have been busy in the corner.

Honourable Members, this ability will allow for greater reflection on the debates in the House and create the opportunity for future generations to see and hear exactly what was said to shape the governing laws of our country.

The Report is respectfully submitted on behalf of the House and Grounds Committee comprising myself, the Honourable Derrick Burgess, Mr. Ashfield DeVent, Mr. Darius Tucker, and Mr. Charles F. B. Swan.

Thank you.

QUESTION PERIOD

The Deputy Speaker: We have a number of questions that have been indicated to me.

I will recognise the Honourable and Learned Member Mr. John Barritt, the Representative for Devonshire South Central.

Mr. Barritt, you have the floor.

QUESTION NO. 1 ON MUNICIPALITIES REFORM ACT

Mr. John Barritt: Thank you, Madam Deputy Speaker. Good morning.

My questions are to the Minister without Portfolio, the Honourable Zane De Silva responsible for this morning's statement on the tabling of the Municipalities Reform Act.

My first question would be why the statement was deliberately withheld from us, contrary to Order 19(7), Madam Deputy Speaker, and why the Bill still remains withheld from us?

The Deputy Speaker: Thank you, Mr. Barritt.

Does the Honourable Minister, Minister Zane De Silva, wish to reply?

Minister De Silva, you have the floor.

Hon. Zane J. S. De Silva: Thank you, Madam Deputy Speaker.

While the Honourable Member used the word "deliberately," let me just say that it was a clerical error. And apologies, certainly, to all Members.

Number two, Madam, the Bill—it has not been tabled yet. When it is, all Members will get copies.

QUESTION NO. 2 ON MUNICIPALITIES REFORM ACT

Mr. John Barritt: Apology accepted, Madam Deputy Speaker.

I have other questions, if I may.

The Minister in his last page of the Statement refers to "the Bill providing a useful starting point for a round of meaningful discussion."

I should like to know what discussions are planned, when, and where?

The Deputy Speaker: Thank you, Mr. Barritt.

Minister De Silva, you have the floor.

Hon. Zane J. S. De Silva: Madam Deputy Speaker, when they are planned and when they are going to take place, did you say? We do not have any plan, and we are hoping it to take place very soon.

Mr. John Barritt: Well, what did the Minister mean by, "a starting point for a round of meaningful discussion"? What discussion does the Minister have in mind when he says that?

Hon. Zane J. S. De Silva: Well, you know, we are going to discuss the Bill. We are going to . . . the Mayor and I, the Corporation . . . the door is open. Let me just state that the door is open and has been open since the middle of March.

Mr. John Barritt: Supplementary, Madam Deputy Speaker?

Could the Minister tell us—

The Deputy Speaker: Supplementary, Mr. Barritt.

SUPPLEMENTARIES

Mr. John Barritt: Thank you, Madam.

What discussions have occurred to this point between the Minister or anybody in Government and Members of either Corporation with respect to what is proposed in this Bill?

Hon. Zane J. S. De Silva: There have been many, many discussions with our consultants and the former Minister without Portfolio, with the Mayor and his organisations. So those are the conversations that have been held to date.

Mr. John Barritt: That is pretty vague, Madam Deputy Speaker.

Supplementary to that one, my last supplementary on that, if I may?

The Deputy Speaker: This is Mr. Barritt's last supplementary.

Mr. John Barritt: Has there been a discussion by anybody on behalf of Government with either Corporation to this Bill that is about to be tabled here today, and its contents?

Hon. Zane J. S. De Silva: Yes, there have.

The Deputy Speaker: Thank you, Minister De Silva.

Mr. John Barritt: I have a further question.

The Deputy Speaker: No, not on this—

Mr. John Barritt: No, another question, a new question, Madam Deputy Speaker.

The Deputy Speaker: How many questions have you asked already, Mr. Barritt? I thought that you had asked two.

Mr. John Barritt: I have asked two. And I have one more, if I may, Madam Deputy Speaker.

The Deputy Speaker: He has two. Madam Clerk, is that correct?

The Clerk: With supplementary.

The Deputy Speaker: And supplementaries.

Okay. Continue, Mr. Barritt.

Mr. John Barritt: Thank you, Madam Deputy Speaker.

The Minister mentioned consultants. He also mentioned, on page five, practices that have no place in modern democracies.

Minister, kindly tell me, then why he has not answered our outstanding Parliamentary questions with respect to how much money has been spent to date on these consultants?

Hon. Zane J. S. De Silva: The answer is very simple for me, Madam Deputy Speaker. He has not asked me.

[Laughter]

Mr. John Barritt: That is a nonsense, Madam Deputy Speaker. These questions have been asked and standing on the Order Paper for some time.

Perhaps he can answer it now: How much money has been spent on the consultants to date?

The Deputy Speaker: That is another question.

An Hon. Member: Hundreds of thousands.

An Hon. Member: I beg your pardon?

An Hon. Member: It does not matter.

[Inaudible interjections]

The Deputy Speaker: That is a supplementary question?

Mr. John Barritt: That is a supplementary, yes.

[Inaudible interjections]

The Deputy Speaker: Minister De Silva?

Hon. Zane J. S. De Silva: The question was, How much—

Mr. John Barritt: How much have you spent to date on the consultants who produced this Bill here today?

Hon. Zane J. S. De Silva: The amount spent to date is $665,000.

Some Hon. Members: Oooh.

The Deputy Speaker: Thank you, Minister De Silva.

Are you finished—

Mr. John Barritt: My last supplementary: Does the Minister think he has gotten value for money on that?

Hon. Zane J. S. De Silva: I have certainly had value. But I think the country on a whole has certainly had value for it.

The Deputy Speaker: Thank you, Minister De Silva.

That is it, Mr. Barritt.

The Chair recognises Dr. Grant Gibbons, the Representative for constituency 22, Paget East.

Minister Gibbons, you have the floor.

QUESTION NO. 3 ON MUNICIPALITIES REFORM ACT

Dr. the Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker.

This question is for the Honourable Member Mr. Zane De Silva on his statement. In his statement he said, "The Bill will end the ability of the Corporations to levy wharfage and port charges," but goes on to say this revenue will have no prejudice to their ability to provide services.

How does the Honourable Member see that working?

Hon. Zane J. S. De Silva: Madam Deputy Speaker, this will be explained and debated in great detail when we discuss the Bill.

The Deputy Speaker: And now you see the problem arises when something precedes that, because we should not pre-empt the debate on the Bill itself. But Members are allowed to ask questions on this statement you made.

Hon. Michael J. Scott: Right. And Members can ask the way they want to.

With your leave, Madam Deputy, Members are allowed to take cognisance of the fact that the Bill is not in their hands. And, therefore, questions they ask should not anticipate the fact that they do not have the Bill, and wait for it.

[Inaudible interjections]

The Deputy Speaker: The questions are based on the statement.

Continue, Dr. Gibbons.

Dr. the Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker.

The Deputy Speaker: Dr. Gibbons has the floor.

QUESTION NO. 4 ON MUNICIPALITIES REFORM ACT

Dr. the Hon. E. Grant Gibbons: Again to Mr. De Silva, another question: Will Government be supplementing . . . Since the Corporation will no longer be able to have wharfage charges, will Government be supplementing the $8 million a year to the Corporation they currently raise through wharfage charges?

Hon. Zane J. S. De Silva: That will be discussed in the future.

I will say this . . . if I can say this, Madam Deputy Speaker—

The Deputy Speaker: Yes.

Hon. Zane J. S. De Silva: I know that the Premier and the Mayor are having a meeting on Monday.

The Deputy Speaker: Thank you, Minister.

Minister Gibbons.

QUESTION NO. 5 ON MUNICIPALITIES REFORM ACT

Dr. the Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker.

The Honourable Member said in his statement that no assets would be removed from the Corporation. Would the Honourable Member not agree that being able to charge wharfage and taxation on the waterfront is an asset that the Corporation currently has?

Hon. Zane J. S. De Silva: Again, I think that the details will be discussed when we debate.

The Deputy Speaker: Thank you, Minister.

Are there any other questions on this item?

Dr. the Hon. E. Grant Gibbons: Not on this one, Madam Deputy Speaker, but—

The Deputy Speaker: Yes, I do have you down for another item. Do you wish to move to that, Dr. Gibbons? FutureCare?

Oh, are you deferring to Ms. Jackson? Okay.

The Chair recognises Mrs. Louise Jackson, the Representative for Pembroke South West, Constituency 20.

Mrs. Jackson, you have the floor.

QUESTION NO. 1 ON RUMOURS AND MISINFORMATION ABOUT FUTURECARE

Mrs. Louise A. Jackson: Thank you, Madam Deputy Speaker.

This question is directed to the Honourable Premier, though I cannot understand, and it is a question of why it is not coming from the Minister of Health, the Minister Walter Roban.

Even though the statement, the paper, has not been laid in this House for us to see, as all other Health Council statements have been presented to this House, this one has not.

The question is, in his statement, the Honourable Premier, implied the cost of healthcare, including FutureCare, is financially viable long-term. How much did the Bermuda Health Council say the overall health care cost this country in 2009?

Dr. the Hon. Ewart Frederick Brown: Madam Deputy Speaker, I do not have that number handy.

The Deputy Speaker: Thank you, Mr. Premier.

Mrs. Jackson, continue.

Mrs. Louise A. Jackson: I will give him the answer. It was—

[Laughter]

The Deputy Speaker: Mrs. Jackson, that does make a folly when you already have the answer!

Mrs. Louise A. Jackson: My supplementary?

[Inaudible interjections and general uproar]

Mrs. Louise A. Jackson: To let this country know—to let this country know, the question is—

The Deputy Speaker: It has to be a question, Mrs. Jackson.

SUPPLEMENTARIES

Mrs. Louise A. Jackson: Supplementary: Is it financially viable long term for this country to pay $557.7 million in 2009, which would come out to a figure . . . I am going to ask the Honourable Premier to give us. In the long term, how much would this cost this country in 2016?

The Deputy Speaker: Could you repeat your question?

Mrs. Louise A. Jackson: The question is, how much—

The Deputy Speaker: Because the Chair must understand your question and not guess.

Mrs. Louise A. Jackson: How much would it cost this country, healthcare in this country, in 2016, which is in the report—how much would it cost, and is that—the question is—

[Inaudible interjections]

The Deputy Speaker: If you are saying the answer is in the Report, then you cannot ask the question.

Mrs. Louise A. Jackson: No, no, no. What I am saying is, I am asking the question—

The Deputy Speaker: Not if it's available.

Mrs. Louise A. Jackson: Is it viable, long-term?

The Deputy Speaker: No, no. The question is, Is the amount reported in the Report viable in the long term?

Is that the question?

Mrs. Louise A. Jackson: That is the question.

The Deputy Speaker: Thank you, Mrs. Jackson.

The Chair recognises the Honourable Premier Dr. Ewart Brown.

Dr. the Hon. Ewart Frederick Brown: Thank you, Madam Deputy Speaker.

Let me say that I welcome that question because the answer cannot be just given in a matter of figures.

The question really is, Can the country afford not to provide this care for its seniors? And the answer to that, of course, is no.

And so, we have said before that we will keep the costs as reasonable as we can; but we must have

as our primary objective to provide excellent care for our seniors. We do not mind adjusting the programme; we do not mind tweaking the programme, making it more efficient. But the answer is yes. We must make it viable. That is the challenge for the Government, to make it viable and to provide the service.

The Deputy Speaker: Thank you, Dr. Brown.

The Chair recognises Mrs. Louise Jackson.

Mrs. Louise A. Jackson: Thank you.

Would the Honourable Premier please tell us why . . . tell this country why we should not be concerned? You did, in this statement, say that there are rumours, misinformation. You said that these statements were creating uncertainty and unease.

My statements mirrored the Health Council. And my question is, How can you say that a figure of a billion dollars by 2016, which is stated, is not a matter of concern, and make these atrocious statements about myself and the press? Surely a billion dollars has got to be a concern.

Dr. the Hon. Ewart Frederick Brown: Madam Deputy—

The Deputy Speaker: Wait, wait, wait, wait.

The question . . . I am sorry. Mrs. Jackson—

[Inaudible interjections and general uproar]

[Gavel]

The Deputy Speaker: Mrs. Jackson, I do not understand the question. Could you state it for me again, please?

Mrs. Louise A. Jackson: My question is, How can the Premier question the fact that I have concerns, the country has concerns, the press has concerns as it presented a headline saying that the Bermuda Health Council, which is the watchdog of healthcare in this country—if they have concerns, my question is, How in the world can the Premier and this Government say they do not have a concern? That is my question.

The Deputy Speaker: Thank you.

Dr. the Hon. Ewart Frederick Brown: Madam Deputy Speaker, the answer to that really is, we never said that we were not concerned.

The Deputy Speaker: Thank you.

Any further questions?

The Chair recognises Dr. Gibbons.

QUESTION NO. 2 ON RUMOURS AND MISINFORMATION ABOUT FUTURECARE

Dr. the Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker.

This question is for the Premier on his statement about the Health Council's report.

In his statement, the Premier quoted the Health Council, and I quote: "The forecasted increase in the senior population over the next decade raises concerns about the long term viability of the plan."

Does the Government agree with the Health Council that there are concerns about the long-term viability of the FutureCare plan?

The Deputy Speaker: Thank you.

Premier?

Dr. the Hon. Ewart Frederick Brown: Madam Deputy Speaker, yes. The Government is always concerned about the viability of all of the Government programmes, especially in light of the current economic climate. It is our job. It is our duty. It is our responsibility to be concerned about the viability of all of our programmes.

The Deputy Speaker: Thank you.

Dr. Gibbons?

Dr. the Hon. E. Grant Gibbons: Supplementary, Madam Deputy Speaker?

The Deputy Speaker: Yes.

SUPPLEMENTARIES

Dr. the Hon. E. Grant Gibbons: To the Premier, how will the Honourable Member be addressing the long-term viability of the plan?

The Deputy Speaker: Premier?

Dr. the Hon. Ewart Frederick Brown: Madam Deputy Speaker, the Government will be addressing the long-term viability, as I mentioned in my statement, through the health strategy proposed and directed by the Minister of Health. That is how we do it. That is how we will address it—with the assistance, of course, of the Opposition.

The Deputy Speaker: Thank you.

Dr. Gibbons.

Dr. the Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker.

Supplementary to that, when and may this Honourable House expect that plan to address the long-term viability of FutureCare?

Dr. the Hon. Ewart Frederick Brown: Madam Deputy Speaker, soon come.

The Deputy Speaker: Thank you.
Dr. Gibbons?

Dr. the Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker.
Question again for the Premier: When will the Government be bringing a 10-year financial projection to demonstrate that the FutureCare plan can be made viable?

The Deputy Speaker: Thank you.
Premier?

Dr. the Hon. Ewart Frederick Brown: Madam Deputy Speaker, I do not know why the Honourable Member is prescribing a certain number of years and a certain type of plan. The Health Council is a watchdog entity. It does not direct and dictate Government policy.
However, I will say that this responsible Government will deliver to this House a regular report on the state of FutureCare and other Government programmes.

The Deputy Speaker: Thank you.
Dr. Gibbons, you are finished on that, are you not?

Dr. the Hon. E. Grant Gibbons: Yes, Madam Deputy Speaker. I have some more questions for another Minister.

The Deputy Speaker: You have some on education, yes.

Dr. the Hon. E. Grant Gibbons: Would you like me to proceed now?

The Deputy Speaker: No.

Dr. the Hon. E. Grant Gibbons: Okay. Thank you.

The Deputy Speaker: I think I am going to take—Mrs. Gordon-Pamplin seems to be anxious to get up. And I knew she was on a different topic. That is why I let you go first on that one. But since you are changing topics now, I shall recognise Mrs. Gordon-Pamplin, the Representative for Paget West, constituency 23.
Mrs. Gordon-Pamplin, you have the floor.

QUESTION NO. 1 ON TYNES BAY WASTE-TO-ENERGY FACILITY

Mrs. Patricia J. Gordon-Pamplin: Thank you, Madam Deputy Speaker.
My questions are to the Honourable Minister Derrick Burgess with respect to his Tynes Bay Waste-to-Energy Facility. Question number one, on page 2 of the Minister's statement the Minister indicated that there were two specialist overseas companies, Industrial Contractors and Engineers (ICE) AG and Elex AG, contractors who were given these contracts.
However, on page 3 of the Minister's statement, he indicated that "the two subcontractors have subcontracted to local companies." My question is, Is AG Engineers, Industrial Contractors and Engineers, are these contractors or subcontractors? Is the Minister's statement incorrect?

Hon. Derrick V. Burgess, Sr.: These are the contractors. And they have—

[Inaudible interjection]

Hon. Derrick V. Burgess, Sr.: Right. They are subcontracting out to others.

Mrs. Patricia J. Gordon-Pamplin: Okay.
I have a supplementary—

SUPPLEMENTARIES

The Deputy Speaker: The two of you have such a wonderful thing going. But just acknowledge the Chair every now and then.

[Laughter]

The Deputy Speaker: Continue.

Mrs. Patricia J. Gordon-Pamplin: I was not supposed to tell? I apologise.
Madam Deputy Speaker, a supplementary: Could the Honourable Member inform this Honourable House who the subcontractors are? He indicated that there are two subcontractors. I think now the statement should have been "the two *contractors*." He has acknowledged that that is incorrect. "The two *contractors* have subcontracted to local companies substantial elements of supporting work."
Could the Minister indicate who the subcontractors are that have been subcontracted by the contractors?

The Deputy Speaker: Thank you.
Minister Burgess?

Hon. Derrick V. Burgess, Sr.: Yes.

The Deputy Speaker: And it is also hanging in the Members' kitchen.

[Pause]

Mrs. Patricia J. Gordon-Pamplin: Supplementary: The subcontractors have been chosen by the contractors from overseas. How could that information be hanging in the public domain? I do not understand it.

The Deputy Speaker: Thank you.
Minister Burgess?

Hon. Derrick V. Burgess, Sr.: I am sorry. That work went out to tender.

Mrs. Patricia J. Gordon-Pamplin: I guess the Minister does not wish to answer.
My next question is—

The Deputy Speaker: The Minister said the answer is available in the public arena because it went out to tender.

Mrs. Patricia J. Gordon-Pamplin: Madam Deputy Speaker, I just did not think that it was too difficult. If the answer was available, the Minister could have just given the answer to the House.

The Deputy Speaker: Or he could tell you where to find it.

Mrs. Patricia J. Gordon-Pamplin: Or where to go find it.

The Deputy Speaker: He did tell you where to find it. It is published every month in the official *Gazette*.

Mrs. Patricia J. Gordon-Pamplin: Absolutely it is the Minister's prerogative to not answer the people of Bermuda.

The Deputy Speaker: Mrs. Gordon-Pamplin, I think you are mischaracterising the Minister's response in this respect.

Mrs. Patricia J. Gordon-Pamplin: [Inaudible]

The Deputy Speaker: And, yes, I would thank you for that.
Now, Minister, she has apologised for mischaracterising your response.

QUESTION NO. 2 ON TYNES BAY WASTE-TO-ENERGY FACILITY

Mrs. Patricia J. Gordon-Pamplin: My second question to the Minister is with respect to the same statement regarding the breaking down of the baling machine.
Could the Minister advise us the age of this machine and what caused the mechanical failure in the baling machine?

The Deputy Speaker: Thank you.
Minister Burgess?

Hon. Derrick V. Burgess, Sr.: Yes.
That is the machine that we rented. We rent it from overseas. I do not know the age of it. And it was a small part of that—

The Deputy Speaker: You can find it out.

Hon. Derrick V. Burgess, Sr.: Yes. We can find that out. I will give you that information.

The Deputy Speaker: Thank you, Minister Burgess.
Supplementary, Mrs. Gordon-Pamplin?

SUPPLEMENTARIES

Mrs. Patricia J. Gordon-Pamplin: Thank you, Madam Deputy Speaker.
Is the Minister anticipating that there would be a refund if the machine was rented from overseas? Would there be some sort of refund for what they paid if they have gotten a faulty machine?

The Deputy Speaker: If it under warranty, I would imagine.
Thank you.
Minister Burgess?

Hon. Derrick V. Burgess, Sr.: Yes. Machines break down. And we have to fix them. And it is not unusual for machines such as the baling machine—or any machine that we buy—to breaks down. You know? It happens, you know.

The Deputy Speaker: Thank you, Minister.
Mrs. Gordon-Pamplin, another supplementary?

Mrs. Patricia J. Gordon-Pamplin: Yes. I do have one further supplementary.
My supplementary is: Is this the same machine that broke down the last time we had a problem at the incinerator, where we also had a machine that broke down? Is it the same machine or the same system?

The Deputy Speaker: Minister Burgess?

Hon. Derrick V. Burgess, Sr.: We did not have the machine then. No.

The Deputy Speaker: Thank you.

Continue.

You said you had two supplementaries.

Mrs. Patricia J. Gordon-Pamplin: Yes.

The Deputy Speaker: We are keeping note, right?

Mrs. Patricia J. Gordon-Pamplin: My question now is for the Minister. Could the Minister advise the Honourable House with respect to the baling process at Morgan's Point? What arrangements have been made to eliminate the production of gases with the bales that have been placed to avoid spontaneous combustion at Morgan's Point?

The Deputy Speaker: Thank you.

Minister Burgess?

Hon. Derrick V. Burgess, Sr.: As we understand, there is not much gas that would emanate from that. The garbage is shredded and wrapped tight, full tight. So we do not have a problem with that.

The Deputy Speaker: Thank you, Minister Burgess.

That concludes your questions, Mrs. Gordon-Pamplin.

The Chair now recognises Dr. Grant Gibbons, the Representative for Paget East, constituency 22.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, thank you, Madam Deputy Speaker.

Actually, I have a supplementary for Mr. Burgess, if I may, on the Member's last questions with respect to baling.

The Deputy Speaker: Even though you did not indicate that, I will allow it.

Dr. the Hon. E. Grant Gibbons: I understand. It was a spur-of-the-moment thing.

The Deputy Speaker: I am sure.

Dr. the Hon. E. Grant Gibbons: I thank you for your indulgence, Madam Deputy Speaker.

The Deputy Speaker: Go ahead. Go for it!

Dr. the Hon. E. Grant Gibbons: Thank you.

The issue is with respect to the baling. Normally when you shred things and you compress them, there is actually more opportunity for spontaneous combustion than there is if things are loose because the heat tends to stay together.

Will all these bales be stacked? Or will they be separated? Because I am also concerned about the heat and possible spontaneous combustion.

Thank you.

Hon. Derrick V. Burgess, Sr.: I am not sure. What do you mean by "stacked" or . . . I can answer based on what my perception of your question is.

Yes, we have to stack them and put them on top of each other. And we have the water there. That is why we thought it was very important to get close to the water so we can spray it, you know, with the salt water.

The Deputy Speaker: Thank you, Minister.

Dr. Gibbons, you have a remaining question on education?

QUESTION NO. 1 ON BERMUDA'S EDUCATION SYSTEM AND PUBLIC SCHOOL STUDENTS BEING USED AS POLITICAL FOOTBALLS

Hon. Derrick V. Burgess, Sr.: I do. Thank you, Madam Deputy Speaker.

These are for the Honourable Member Mr. James. In his Statement, the Honourable Member said that before students start this September, they will know the requirements that will be required for them to graduate with a Bermuda School Certificate.

What I would like to ask the Honourable Member is, Will that requirement likely include a certain number of passes on the new Cambridge exams?

The Deputy Speaker: Thank you, Dr. Gibbons.

Minister James?

Hon. Elvin G. James: Thank you, Madam Deputy Speaker.

Well, of course. The Cambridge . . . the requirements have already been set—not by us, but by Cambridge. And what I am referring to here is the raising of the bar for the BSC. We are going to let all the students know in September just what they need to do to graduate, or to graduate in 2011.

The Deputy Speaker: Thank you, Minister.

Dr. Gibbons?

Dr. the Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker.

The question I am asking the Minister is . . . Cambridge obviously has its own requirements in terms of their curriculum. But will passing the BSC—will graduating with a BSC be set by Cambridge, or will it be set on what I will call local standards as to what is required for the BSC, as opposed to a Cambridge pass?

The Deputy Speaker: Thank you.

Minister James.

Hon. Elvin G. James: The only thing that we are going to change as far as raising the standards for the BSC is to say that you have to have a 2.0 average to graduate. That is it. Up until now, if you showed up for class and you met all the requirements, had a 1.0 GPA, you graduated. So that is when we say we are raising the bar.

The Deputy Speaker: Thank you, Minister James.

The Chair recognises Dr. Gibbons.

Dr. the Hon. E. Grant Gibbons: So, would the Honourable Minister therefore confirm that the 2.0 will in many respects be independent of a Cambridge exams that the students can pass in their senior year?

The Deputy Speaker: Minister James?

Hon. Elvin G. James: Thank you.

Those that get the BSC certificate will be required to meet those standards. Those that get the Cambridge certificate will meet the requirements of Cambridge.

Dr. the Hon. E. Grant Gibbons: Madam Deputy Chair, I have another question for the Minister.

The Deputy Speaker: Dr. Gibbons, continue.

QUESTION NO. 2 ON BERMUDA'S EDUCATION SYSTEM AND PUBLIC SCHOOL STUDENTS BEING USED AS POLITICAL FOOTBALLS

Dr. the Hon. E. Grant Gibbons: Yes. In his Statement, the Honourable Member talked about the number of students going on to tertiary education from both Berkeley and CedarBridge.

Could the Honourable Member tell the House what number of students are actually going on at Berkeley and CedarBridge to tertiary education?

The Deputy Speaker: Thank you, Dr. Gibbons.

The Chair recognises the Minister of Education.

Minister James, you have the floor.

Hon. Elvin G. James: Thank you.

I do not have an exact number. But I can tell you, it was . . . I am guessing right now. Apart from a small amount at the bottom, almost all of the others have been accepted. All those that are trying to get into universities have already been accepted into either Bermuda College or someplace overseas, some very prestigious places. Some have been accepted in two, three, four, five universities overseas.

But I can supply you with the whole list if you want.

The Deputy Speaker: Thank you, Minister James.

Dr. Gibbons.

Dr. the Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker.

We would be obliged if the Honourable Member could provide this Honourable House with the number of students at Berkeley and CedarBridge that are actually going on to tertiary education.

The Deputy Speaker: Thank you. He has offered to do so.

Dr. the Hon. E. Grant Gibbons: That is all I have got. Thank you, Madam Deputy Speaker.

The Deputy Speaker: All right. The Question Period . . . Mr. Swan, yours were on education, were they?

Mr. Charles F. B. Swan: No. Mine are to the Minister of Works and Engineering, Madam Deputy Speaker.

The Deputy Speaker: And you did not get up when we were on that matter?

Mr. Charles F. B. Swan: Sorry? No. I think you wanted to do the Honourable Members first, and I just had a couple of questions that sprang to mind, so I thought I would stand up to ask them.

The Deputy Speaker: And you have not indicated that to the Speaker in advance?

Mr. Charles F. B. Swan: Not until now, ma'am.

The Deputy Speaker: That is not the method, Mr. Swan.

The Question Period is finished.

CONGRATULATORY AND/OR OBITUARY SPEECHES

The Deputy Speaker: The Chair recognises the Honourable D. Neletha Butterfield.

Minister Butterfield, you have the floor.

Hon. D. Neletha I. Butterfield: Thank you, Madam Deputy Speaker.

I would like for condolences to be sent to the family of the late Eleanor Vinters Ingham. Vinters Ingham, nee Butterfield, was a cosmetologist in the area of North Shore Road, Pembroke. And I can recall the amount of times that I had to go there and get my little curls put in. A very outstanding person in the community, having to work down at Renaissance helping in the kitchen there, doing some great gingerbread and so forth.

But one of the things that I liked that I saw in her obituary was that during—you know, we talk about the village, and we talk about the community, and we also talk about the Out of the Window Club, which is now the Pembroke Community Club, which was derived from the Butterfield family. And I like that they put that in her obituary. It stated that the Butterfield family was and still is a close-knit family, for family is important to them. So I appreciate that. And I trust that her family will be comforted through the work that she did in the Pembroke community, especially in the West Pembroke area.

Thank you, Madam Deputy Speaker.

I also would like for congratulations to go to Nadanja Bailey and Jah Simmons on their 10th anniversary, and the event that was held at the Fairmont Hamilton Princess last weekend. I was really moved and really amazed by the talent that these two young men have. And I am sure, Madam Deputy Speaker, you would like to join me in congratulations to the play *Leave It Alone*, and Linda Paynter Productions.

The Deputy Speaker: Yes.

Hon. D. Neletha I. Butterfield: And I believe it was Irving Ingram who was writer of this play. Again, the talent that Bermuda is having, acting as well as in singing, was very good. And I am sure you enjoyed yourself. I did see you there having a good laugh.

Lastly, Madam Deputy Speaker, I would like for congratulations to be sent to our Honourable Minister of Finance and Deputy Premier, Paula Cox, for the Prestigious Pathfinders Award that she has received this week. And congratulations should be sent to her. I am sure you would want to be associated with those congratulations.

The Deputy Speaker: I would think the whole House would want to be associated with that.

Hon. D. Neletha I. Butterfield: Thank you, Madam Deputy Speaker. Thank you very much.

The Deputy Speaker: Thank you, Minister Butterfield.

The Chair recognises the Honourable and Learned John Barritt.

Mr. Barritt, you have the floor.

Mr. John Barritt: Thank you, Madam Deputy Speaker.

There are two families to which I should like the House of Assembly to send condolences through yourself. And the first is to the family of a former Honourable Member of this House, of our Bermuda Government, Madam Deputy Speaker. And that is the Honourable Ralph Marshall and his family. His wife died earlier this week, Madam Deputy Speaker, and I think will be buried next week. She was, I think, a strong lady, strong-willed lady who, throughout the years of service that that Honourable Ralph Marshall gave to the Government and to the people of Bermuda, was there by his side and behind him all of the way. And she was, I think, very helpful and instrumental, and I think has also been a person who has been a great influence in the community as well.

And I know she will be sadly missed by her husband, Ralph, and the family. And I would ask that we send an appropriate letter of condolences to Mr. Ralph Marshall, the former Honourable Member.

The Deputy Speaker: Yes. I think the House would want to join in that.

Mr. John Barritt: I think so. I certainly know Members on this side do, and I am sure Members on that side.

The Deputy Speaker: Members on all sides, Mr. Barritt.

Mr. John Barritt: I would also like—again, it is on a sad note—to ask that condolences be sent to the family of the late Mr. William, or Willie, Mello, he was known. Mr. Mello died, I think about a week ago, Madam Deputy Speaker, in his 93rd year. So he had a full life, and I think he maximised it, too. I think his family would tell you, in terms of being a father, grandfather, and great-grandfather to all of his children, he was.

Members may recall, and the public may, that he was a salesman. I think he started out selling cars when they were first introduced here. He was a salesman in cars. I think the company at that time was Trott & Company, which I was not aware of, Madam Deputy Speaker. And then he went on, I think, to be a strong salesman and force in the development of British American Life Insurance in Bermuda, back in the time when it was a vibrant, viable company, Madam Deputy Speaker.

And they said of Willie that he was one of those salesmen par excellence. They recalled at his funeral that he was the type of salesman who could sell ice to Eskimos.

But as I said, I think his family—

[Inaudible interjections]

Mr. John Barritt: No, but he was that energetic and enthusiastic. He was a strong salesman. That is the context in which I put it.

[Inaudible interjections]

Mr. John Barritt: And as I say, Madam Deputy Speaker, I think he will be well remembered, well remembered for his role as father, grandfather, and great-grandfather in a rather large family whom he

has helped raise to be valuable and productive members of the community.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Barritt.

The Chair recognises Mr. T. E. Lister, the Representative for Sandys South, constituency 33.

[Laughter and general uproar]

Hon. Terry E. Lister: Thank you, Madam Deputy Speaker.

You know, I believe it is important to be at the front of the room, and that is how we get seen first. So thank you very much.

I, too, would like to express condolences to the family of Mrs. Marshall, who was a constituent of mine, as has been said already.

[Inaudible interjection]

Hon. Terry E. Lister: No, I said "constituent."

Mr. Marshall made a tremendous contribution to this House and to this country, and his wife has been with him, supporting him all the way.

The Deputy Speaker: Yes.

Hon. Terry E. Lister: And it will be a great loss to him and his family.

I also would like to bring condolences to the family of Mr. Raymond Grapes Raynor. Raymond Grapes Raynor really *was* Southampton West for many years in terms of those who supported that branch of our Party, who did the work, the groundwork, the hard work. And, of course, he is part of that great Raynor clan who have contributed much to Southampton. And so he will be missed, and will be a great loss to his family and also to our branch.

Lastly, I would like to offer congratulations to the tremendous performers, Jah and Nadanja, who run *Two Fools*, who had their concert last week. This time was a record length concert. I believe it ran about four hours.

[Inaudible interjection]

Hon. Terry E. Lister: Someone said like a church service.

[Laughter]

Hon. Terry E. Lister: Well, you know, I believe it was as enjoyable as a church service of four hours can be.

[Inaudible interjection]

Hon. Terry E. Lister: Well, we will not go there.

[Laughter]

Hon. Terry E. Lister: But nonetheless, Madam Deputy Speaker, I would like to offer congratulations to two fine young men who performed in an incredible way over a long period of time, and who really should be in bigger lights, who really should be on an international stage at this point. And if we continue to encourage them and support them, I am sure they will get there.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Lister.

The Chair recognises Kim Swan, the Opposition Leader and the Representative for St. George's West, constituency 2.

Mr. Swan, you have the floor.

Hon. Hubert (Kim) E. Swan: Yes, Madam Deputy Speaker.

I would like to be associated with the condolences being offered to the family of the late Patricia Marshall from Peace Haven, Somerset Bridge. As many will know, the Marshalls are like family to me. The Marshall family, the Honourable Ralph, Blake, his wife Kelly, Linda and the late Marsha Marshall were like family to me. I have spent many Christmases at their home, many times at their home. I grew up in the Hog Bay area, played golf with her son. And her husband Ralph, the Honourable Member, played an integral part of my life.

And I am very deeply saddened to have to stand to bring condolences on this occasion, because, as I said, Madam Deputy Speaker, they are very close to me. And the Honourable Member was my Member of Parliament. Her husband, who survives her, Ralph, was my Member of Parliament in Southampton West. And I spent many hours with them in their home in politics and talking about life, and playing golf with their son. And I am deeply saddened.

I would also like to be associated with the condolences being offered to the family of the late Raymond Grapes Raynor, whose family is also interconnected with mine. And everyone knows that my auntie and my uncle both married into the Raynor and the Lowe family, and I spent many a time down in Raynors' garage, playing cricket in the back. And also many will know that Mr. Grape Raynor's children also passed Heron Bay and came to Glebe to school. And Marilyn and Diane and Ray-Ray—we all grew up together.

And I would like to certainly (I know the Speaker is not here) associate the Speaker, because I know the Speaker is very, very close to that family as well, and very much related to that family. It is a very large family, the Raynor family. And I sincerely offer condolences to them.

And finally, I would like to be associated with the condolences being sent to the family of Willy Mello, who I did not know as well, but fondly remember him and the times he spent around the golf course, and a very cheerful, cheerful man with a beautiful smile. I am sure he will be sadly missed by all his friends and family.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Swan.

I am going to recognise the Honourable Zane De Silva.

Mr. De Silva, you have the floor.

Hon. Zane J. S. De Silva: Thank you, Madam Deputy Speaker.

I would like this Honourable House to send congratulations to Mr. Wendell Hollis, well-known lawyer in Bermuda. Mr. Hollis was appointed the Chairman of the Defence Board on July 1st this year. He has a long, decorated career with the Regiment, having joined the Regiment in 1976. He was commissioned an officer in 1977. In 1987, he conceived of and led the cleanup, if you remember, from Hurricane Emily.

He was also appointed a member of the Defence Board in 1988. And the last 10 years, he has served as Chairman of the Exemption Tribunal. In 2002, he was appointed to the Trustee of the Bermuda Regiment Charitable Trust.

So, you know, Mr. Hollis has a history that is certainly one that deserves congratulations from this House.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Minister De Silva.

The Chair is going to recognise Mrs. Louise Jackson, the Representative for Pembroke South West, Constituency 20.

Mrs. Jackson, you have the floor.

Mrs. Louise A. Jackson: Thank you, Madam Deputy Speaker.

I would like to associate myself with the condolences being sent to two families, first Ralph Marshall, the family of Ralph Marshall. Patricia, again, was a dedicated wife. I watched her many times support her husband in so many ways. We actually travelled together to Zimbabwe many years ago on a Commonwealth Parliamentary Association Conference. So we had many, many days together and a lot of fun. We really enjoyed ourselves, and she was so supportive of everything that he did. And he really worked hard for the CPA. This was one of the things that he dedicated himself to for many years.

I would also like to have condolences sent to the family of Willy Mello, whom I have known since the early '70s. This was a man who saw two young black women on the golf course and joined us and, through the years, taught us so much about golf. One of the women was Shirley James, who . . . the two of us started playing golf together when Port Royal opened. And we did not know one end of a golf stick from the other. And we took many, many lessons. But I have to say that Willy really taught us far beyond what many of the golf pros tried to do.

He was such a kind man. My youngest daughter Susan lost two of her guinea pigs when she was a little girl. And she dearly loved these guinea pigs; they died. And Willy went out and found two guinea pigs for her—I will never forget that—and brought them to the house. She was just overjoyed. He was a wonderful man.

He was my constituent in the end, when he was at Westmeath. And I have to say that this was a man who really helped with the integration in Bermuda. He took us, Shirley James and myself, to the Princess Golf Course to play, and to other courses to play that we would not have been able to play on in those years.

Wonderful man. He will be sadly missed.

Thank you.

The Deputy Speaker: Thank you, Minister Jackson.

I am going to take Mr. Charles Swan, the Representative for Constituency 31, Southampton West Central.

Mr. Swan, you have the floor.

Mr. Charles F. B. Swan: Thank you, thank you, Madam Deputy Speaker.

I just rise this morning to associate myself with the condolences to Patricia Marshall. I have known the family for a long time as well, and particularly the children.

I would also like to be associated with the condolences to the family of Grape Raynor. Grape, many years ago, worked for a company called Pembroke Supply out on Serpentine Road. And my father owned and operated that, and he was an employee of ours.

Also, the congratulations to Nadanja Bailey and his concert. I just could not get there. The wife and I wanted to attend. A true entertainer, if ever Bermuda has produced one. And I just wish him and his colleague all the success that they deserve, going forward.

Thank you.

The Deputy Speaker: Yes. Thank you, Mr. Swan.

I am going to recognise Mr. K. Randolph Horton, the Representative for Southampton West, constituency 32.

Mr. Horton, you have the floor.

Hon. K. H. Randolph Horton: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, I would like to be associated with the remarks concerning the *Two Fools.*

[Inaudible interjection and laughter]

Hon. K. H. Randolph Horton: No, Mr. Barritt.

Madam Deputy Speaker, I would like to ask that this House send congratulations to two Bermudians, Mr. Larry Mussenden and Mr. David Sabir, who just returned from South Africa carrying out major duties with the FIFA in terms of the organisation of the World Cup. Mr. Mussenden was head of the appeals committee, and Mr. Sabir was head of security at one of the venues of the event.

So we are all very proud of the contribution that Bermudians have made to the World Cup 2010.

Thank you.

The Deputy Speaker: Thank you, Mr. Horton.

I am going to recognise Dr. Grant Gibbons, the Representative for Paget East, constituency 22.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker.

I rise this morning to ask that congratulations be sent to the Bermuda Foundation for Insurance Studies and the 13 scholars that were awarded scholarships bursaries yesterday. I am sure the Honourable Member Mr. James would also like to be associated with those congratulations.

The Deputy Speaker: Yes.

Dr. the Hon. E. Grant Gibbons: I would just like to say it has now been over 14 years since the Bermuda Foundation for Insurance Studies was founded in 1996. I think there is an old expression, *You reap what you sow,* and I do believe that the founders, particularly Brian Hall, would be very proud to see the success of the Bermuda Foundation in insuring and supporting young Bermudians who yesterday were going to a range of universities, from Johns Hopkins to Oxford to St. John's University, to do further undergraduate study in either actuarial science, risk management, or other studies associated with insurance.

There were also some graduates from 2010 and some continuing scholars as well who were recognised yesterday. But it was indeed an impressive lot, and it was very good to see the degree of support which business has brought to bear in getting young Bermudians in positions where they can take advantage of the opportunities in Bermuda.

I would particularly like to congratulate young Brittany de Frias, who actually was the winner of the Colonial Scholarship this year. I have to put a little plug in here, Madam Deputy Speaker.

The Deputy Speaker: Must declare your interests.

[Laughter]

Dr. the Hon. E. Grant Gibbons: It should be obvious, Madam Deputy Speaker.

But all of them, obviously, have done very well. And all of them, I think, should be very proud of their success so far, as well as their parents.

While I am on my feet, I would ask to be associated with the condolences sent to Ralph Marshall on the passing of his wife Patricia. Certainly Mr. Marshall was one of the founding members of the United Bermuda Party, and his wife certainly would have been very supportive over many years. And I think we all owe both of them a debt of gratitude for the service that they have provided on behalf of the country.

I would also like to be associated with the congratulations to Jah and Nadanja, the *Two Fools*, on their 10-year performance. I did not get a chance to see it, but I have enjoyed a number of performances they have done. It sometimes approaches pure genius.

And finally, Madam Deputy Speaker, I would like to ask that congratulations be sent to a Mr. Richard Warner. And I thought that the *Royal Gazette* actually did a very good job here. Mr. Warner was the employee of Elbow Beach who went out of his way to ensure that not only the plot of beach in front of Elbow Beach was clean, but also he extended that to a good portion of the public beach area as well. I think it is only right that someone who goes above and beyond the call of duty to make sure that Bermuda is appealing to not only visitors, but also the Bermudians, should be recognised for that. And the Honourable Member Mr. Horton would like to be associated with those comments.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Dr. Gibbons.

The Chair recognises Mrs. Patricia Gordon-Pamplin, the Representative for Paget West, constituency 23.

Mrs. Gordon-Pamplin, you have the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, thank you, Madam Deputy Speaker.

I would like to be associated with the congratulatory remarks to Nadanja and Jah on their 10th anniversary performance.

I have been privileged over the years that any time Nadanja has put on a performance, I have been privileged to attend and to support him. Well, so enthusiastic was I to attend this particular 10th anniversary that, having listened to the radio that there was

going to be a performance on Thursday, Friday, Saturday, and having had the benefit of a houseguest arriving Thursday, I pack up my son and houseguest, and we drive out to Southampton Princess. And I thought, how lucky I was to get a prime parking space, because you know those types of events are well sold out.

And as I am going into the front door of the hotel, in comes Nadanja. And I said to him, "I had difficulty. I called the hotel, they said I can get tickets at the door. I have got these houseguests."

And he says, "You are coming tonight?"

I said, "Yes."

And he says, "But the show is not until tomorrow."

[Laughter]

Mrs. Patricia J. Gordon-Pamplin: So, having been overly enthusiastic and knowing that we were in the House late on Friday and I was travelling on Saturday, I was unable to actually witness this particular performance. But I was absolutely thrilled for these young men at the dedication that they have. And I said to Nadanja, "You probably will now have me as the butt of your joke because not too many people are going to show up for a performance 24 hours early."

But I would like to offer my congratulations to them, and I have no doubt that I will be made fun of at some future points in time, and I do not have a problem with that.

But I think that their efforts are laudable, that the recognition that they get is well deserved, and I would like to be associated with those congratulatory remarks.

Thank you.

The Deputy Speaker: Thank you, Mrs. Gordon-Pamplin.

I am going to recognise the Honourable and Learned Michael Scott, the Representative for constituency 36, Sandys North.

Mr. Scott, you have the floor.

Hon. Michael J. Scott: Madam Deputy Speaker, thank you.

Madam, I also rise to be associated with the offers of condolences to the two families that have been largely mentioned in the House. Certainly, first to the Honourable Ralph Marshall on the loss of his dear wife Mrs. Marshall.

I certainly recall that, as I walked in the hills of Southampton West fighting elections there when the Honourable Member Mr. Vera and the Honourable Member Mr. Marshall were on the scene, Mrs. Marshall was always a solid supporter of her husband. So to Mr. Marshall I send and offer my condolences associated with those that have been offered by this Honourable House.

I am very good friends with Mrs. Debby Rice, formerly Debby Mello, and a legal colleague of Mr. Michael Mello. And I certainly offer my condolences on the passing of their father, Mr. Willy Mello. Thank you.

May I be associated with those wonderful congratulations to . . . I like the way Dr. Gibbons puts it. They are geniuses. So pure genius is what we find from Jah and Nadanja, and I wish to be associated with the congratulations on this milestone.

The Deputy Speaker: Thank you, Minister Scott.

Does any other Honourable Member wish to speak to the congratulatory or obituary speeches?

If not, I will move on.

MATTERS OF PRIVILEGE

The Deputy Speaker: There are none.

PERSONAL EXPLANATIONS

The Deputy Speaker: There are none.

NOTICE OF MOTIONS FOR ADJOURNMENT OF THE HOUSE ON MATTERS OF URGENT PUBLIC IMPORTANCE

The Deputy Speaker: There are none.

INTRODUCTION OF BILLS

GOVERNMENT BILLS

The Deputy Speaker: The Chair recognises the Honourable and Learned Minister Scott, the Minister of Energy, Telecommunications, and E-Commerce, and Spokesperson for the Ministry of Justice.

Minister Scott.

GOVERNMENT LOANS AMENDMENT (NO. 2) ACT 2010

Hon. Michael J. Scott: Thank you, Madam Deputy Speaker.

On behalf of the Ministry of Finance, the Honourable Paula A. Cox, I wish to table the Government Loans Amendment (No. 2) Act of 2010, with the Government's recommendation signified.

Madam Deputy Speaker, this Bill seeks to amend the Government Loans Act of 1978 so as to state clearly that the Government has power to guarantee the debts and other obligations of third parties

and to clarify the meaning of "public debt," on behalf of the Minister of Finance.

Thank you.

The Deputy Speaker: Thank you, Minister Scott.

Are there any other introduction of Government Bills? No.

OPPOSITION BILLS

The Deputy Speaker: There are none.

PRIVATE MEMBERS' BILLS

The Deputy Speaker: There are none.

NOTICES OF MOTIONS

The Deputy Speaker: The Chair recognises Mr. E. T. Bob Richards, the Representative for Devonshire East, constituency 11.

Mr. Richards, you have the floor.

THAT THIS HONOURABLE HOUSE TAKE NOTE OF RESPONSE OF MINISTER OF FINANCE ON REPORT OF PARLIAMENTARY STANDING COMMITTEE ON PUBLIC ACCOUNTS OF FINANCIAL YEARS ENDED 31ST MARCH 2007 AND 31ST MARCH 2008

Mr. Everard T. (Bob) Richards: Thank you, Madam Deputy Speaker.

I give notice that at the next day of meeting I propose to move the following motion: That this Honourable House take note of the Minister of Finance response on the Report of the Parliamentary Standing Committee on Public Accounts of the Financial Years ended 31st March 2007 and 31st March 2008.

The Deputy Speaker: Thank you, Mr. Richards. That will be put on the Order Paper.

And before we move to Orders of the Day, Members, I just wish to refer you to Standing Order 37(4), which is on Joint Select Committees, and which reads that, "A Joint Select Committee may be appointed at the request of either House with the approval of the other House."

And you will note that this morning the Speaker read a message from the Senate, from the Senate President. And I just want to read a part of it to you and get your agreement so that the House has officially agreed with what they have asked.

And they have asked that, "The House respectfully requests that Representatives from the Senate be joined with Members of the said House Select Committee to form a Joint Select Committee to operate under the same terms of reference as those approved by your Honourable House."

And I have had the opportunity to speak with the mover of the original motion, who has no objection to this.

So, Members, if you are in agreement, please signify by saying Aye.

Those against, say Nay.

[Motion carried: The Joint Select Committee was approved.]

ORDERS OF THE DAY

The Deputy Speaker: Order Number 1, Public Access to Information Act 2010. Is that carried over?

Order Number 2, the Media Council Act 2010. Thank you.

Order Number 3, Consideration of Draft Regulations entitled the National Pension Scheme Financial Hardship Regulations. Carried over.

The next item, Number 4, the consideration of the Draft Order entitled the Civil Airport (Amendment of) Schedule Order 2010, the Minister of Tourism and Transport, the Honourable Premier Dr. Ewart Brown.

CONSIDERATION OF DRAFT ORDER: CIVIL AIRPORT (AMENDMENT OF SCHEDULE) ORDER 2010

Dr. the Hon. Ewart Frederick Brown: Thank you, Madam Deputy Speaker.

I move that consideration be given to Draft Order entitled Civil Airport (Amendment of Schedule) Order 2010, proposed to be made by the Minister responsible for Tourism and Transport, proposed to be made under the provision of section 1(2) of the Civil Airports Act 1949.

Madam Deputy Speaker, the purpose of the Order before the House today is to seek to repeal and replace the Schedule to the Civil Airports Act 1949. The revised Schedule will provide for the designation of several parcels of land to the Department of Airport Operations (DAO) in accordance with the Act.

Honourable Members will note that the Order designates 662.88 acres to the airport identified in the Schedule under Land Parcel A, an increase of 123.512 acres over the original 539.376 acres designated under the old Schedule.

The majority of the new parcels being designated were previously held by the Bermuda Land Development Company (BLDC) and are being transferred to enable DAO to satisfy its regulatory requirements, and ultimately, to meet the master plan objectives for the Bermuda L.F. Wade International Airport.

Madam Deputy Speaker, Honourable Members will know that the aviation world has put in place increased security protocols following the terrorist attacks of 9/11 and the numerous planned attacks that have followed since. The industry has also proactively

sought to enhance its airport and aircraft regulations to ensure the safety of air travel.

Ongoing audits of DAO by international regulatory bodies over the past several years have determined that critical land areas in Bermuda should be reserved for aviation purposes only, as per the Civil Airports Act 1949 section 1. Accordingly, commending in 2004, discussions aimed at transferring required lands were held between the Ministry of Tourism and Transport and BLDC. These discussions have led to an amenable designation of land that ensures that the interests of both agencies are maintained.

Madam Deputy Speaker, the demised land affected by the order before the House today amounts to approximately 123 acres, as indicated earlier, and it includes several parcels. Firstly, there is an 18-acre site formerly known as the Main Gate, located at the Kindley Field Road Swing Bridge Rotary. This site is required to facilitate the extension of Taxiway Alpha as defined in the Airport Master Plan, a move that would mitigate runway incursions, an unsafe occurrence often caused by aircraft having to taxi across an active runway.

In addition, there is a 1.9-acre site surrounding the former NATO hangar that, notwithstanding the regulatory requirements, will undoubtedly optimise airport revenue. Whilst the hangar is within the control of DAO, its revenue-earning potential and comprehensive aviation use are compromised by the lack of any landside parking or road access, as these surrounding lands were formerly assigned to BLDC.

Madam Deputy Speaker, a narrow strip of land located along the northern perimeter of the airfield in front of the Channel House Building that houses the offices of the Department of Civil Aviation and the Information Technology Office, cannot be used for any purposes other than aviation if the DAO is to comply with standards related to the use of active taxiways and runways defined by the world's principal aviation regulatory body, the International Civil Aviation Organization, also known as ICAO.

This area of land lies within the airport's highest level of turbojet aircraft noise exposure, given its proximity to Taxiway Alpha. This makes it highly unsuitable for occupancy.

Further, development of any sort in the area in front of the Channel House lot could potentially disrupt key airport navigational aids. Of equal relevance, ICAO standards as defined in Annex 14 of its Airports Regulations call for the repositioning of Taxiway Alpha 85 feet to the north, in order to meet the setback distance requirements between a parallel taxiway and runway, thereby directly impacting this particular parcel of land.

Nearby, further along the narrow strip, an additional parcel of land is needed by DAO to make Apron Number 4 useable for ongoing aviation development, such as the planned Second Executive Jet Handling Operation and the US Executive Jet Pre-Clearance Facility. This land is also necessary to ensure that those setback requirements are met for a repositioned Taxiway Alpha and to ensure that ICAO-defined height limitations surrounding the aircraft approach to Runway 30 are adhered to.

Finally, Madam Deputy Speaker, as it relates to the transfer of BLDC land, the 78-acre landmass often referred to as the Finger is landlocked and inaccessible for any other use than aviation. The Finger is presently used for the parking of military aircraft and is the only remote aircraft parking area at the airport to be used in the event of an incident requiring an aircraft to be isolated, such as a hazardous materials alert or a terrorist attack. Honourable Members will no doubt recall the events of September 11, 2001, when this area was utilised for extra aircraft parking.

Madam Deputy Speaker, the Finger is located in close proximity to sensitive on-airfield navigational aid equipment, hence the need to ensure that the area is free of obstacles and that nothing exists that may potentially have an adverse impact on this critical equipment. The Finger is currently used as the training site for the airport fire department, and this practise will likely continue.

ICAO standards and the National Aviation Security Programme (NASP), which outline the security requirements at airports, require that this landmass known as the Finger remains a secure area.

The balance of the land transfer, approximately 12 acres, is located at Ferry Reach and Clearwater, and will be used for the installation of additional runway approach lights to meet regulatory requirements.

Madam Deputy Speaker, the transfer of these approximately 123.512 acres of land that fall within the 662-acre area highlighted A on the Schedule, in addition to the existing land areas marked B through F, are essential to ensuring that L.F. Wade International Airport is positioned to meet its international regulatory requirements, with a view to achieving optimum safety for the travelling public. It should be noted that the acreage associated with land parcels B, C, D, E, and F in the Schedule remain unchanged.

In summary, Madam Deputy Speaker, the primary driver of the revised land designation in this instance boils down to the more rigorous demands of international regulatory requirements. These requirements are embodied in the Airport Master Plan. That plan outlines the development that must take place in order to meet the operational requirements of the airport over the next 10 to 20 years. It outlines airfield developments such as adjustments to Taxiway Alpha, as discussed.

The centrepiece of the plan is the new terminal building needed to replace the existing facility, which has exceeded its useful life, a facility that remains under threat by hurricane storm surge. Notwith-

standing, a new facility at L.F. Wade International Airport is not in the Government's immediate capital plans. However, implementations of the other elements of the master plan, inclusive of the land designation, can move forward.

With these brief comments, Madam Deputy Speaker, I now invite Honourable Members to participate.

Thank you.

The Deputy Speaker: Thank you, Dr. Brown.

The Chair recognises Mr. Kim Swan, the Representative for St. George's West, constituency 2.

Minister Swan, you have the floor.

Hon. Hubert (Kim) E. Swan: Thank you, Madam Deputy Speaker.

The explanation provided by the Honourable Premier certainly makes eminent good sense. We all, as he did state, are aware of the regulatory responsibilities of operating an airport, particularly under the circumstances that have taken place since 9/11, which has had a tremendous impact on us, both on a number of areas, notwithstanding that of security. We certainly, last week or a couple of weeks ago, had to deal with legislation which was somewhat similar, with the perimeters of the dock areas.

But with regard to this legislation, Madam Deputy Speaker, one of the concerns that I have to raise (as I chuckled to myself when the Premier gave the explanation for the little peninsula area known as the Finger) is that there is a parcel of land which comes under this, which is part of this map, which many people would refer to as the area that deals with the private-jet facility, which was formerly operated by Sovereign.

We know the unfortunate circumstances that took place there, involving the way in which that was handled. And I do know that there are some existing concerns with persons who have particular interest in that private-jet facility were wondering . . . one of the questions I have is whether or not the transfer of this particular order has any impact on the situation that is transpiring there with that particular area that is so . . . I believe provided a service, but was interrupted because of court proceedings that involved other private-jet facilities and the contravention of their original agreement.

I do know that there are individuals who, Madam Deputy Speaker, have had their homes mortgaged and are very much in jeopardy as a consequence of some of the unfortunate circumstances that have transpired with the way in which a lot of these contracts were handled. And I am very concerned, as I am sure a number of people are concerned, particularly about that.

And I think, more appropriately, where the peninsula is named the Finger, I think in some respects there are people out there that certainly feel that they have received "the finger" with regards to how they have had to deal with circumstances pertaining to business transactions involving this area.

And it is very disconcerting, Madam Deputy Speaker, when you have situations like this that are occurring, notwithstanding the economic circumstances of the day, which is making business even more difficult. Many people are out of work, many people are having difficulty surviving. To have families that would find it necessary or have the zeal to mortgage themselves, to put their homes on the line to go in business and certainly lease out Government lands to do so, to find themselves caught in the crossfire of political manoeuvring, as best I can put it, is most unfortunate. And I certainly hope that some of these things can be rectified with proper satisfaction.

Those are my comments.

Oh, one other comment with regard to . . . the Premier spoke to the Master Plan and the need to certainly have the areas on the perimeters of the airport secure and to utilise these areas for taxiways and the like. And as I said earlier, that makes eminent good sense. But I will make a notation that the plans that were put in the paper with regard to the expansion or the building of the new airport terminal certainly raised a few eyebrows and throughout, up and down the country, to whether or not the design plan sketches were too grandiose, or even whether or not they were appropriate for the type of wind that does move its way, particularly those northerlies.

We thought that it may be cited as an aircraft travelling somewhere, if the way in which the design was featured, the wind might be able to get up underneath it and cause it a bit of bother. But I am sure that the engineers and the architects are far more skilled than that. But we have certainly known buildings to be put up, only to have to be altered because they did not take the advice of some of the more practical people who are on the ground who understand what takes place in our country and what works in our country.

But I just felt it my duty to bring to the attention of the House some of the concerns that were raised by some of the laymen and some of the observers in the community as a result of the plan being made, the sketches being made public.

Those are my remarks, Madam Deputy Speaker.

Thank you.

The Deputy Speaker: Thank you, Mr. Swan.

The Chair recognises Dr. Grant Gibbons, the Representative for Paget East, constituency 22.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker.

I would like to just focus for a few minutes on what the Premier, the Honourable Member referred to as the "Finger." It is an interesting piece of land. And I recall, going back a number of years, when we had taken over the airport on the Southside area from the US Navy. There was a lot of sort of discussion as to what might be useful out on that—I think it is about 80-odd acres. I cannot remember what the Premier said, but I remember something on the order of 80–85 acres of land out there.

Madam Deputy Speaker, you will remember back in the day, it actually was a runway at one point. And the Navy used to use it for landing aircraft.

The Deputy Speaker: I actually do not remember that.

Dr. the Hon. E. Grant Gibbons: Very good. I am sorry to impugn improper motives.

[Laughter]

Dr. the Hon. E. Grant Gibbons: I recall it early in my day.

The interesting thing is that [that] pier was then referred to for a number of years as the Munitions Pier. And I think most of us suspected that that was the area where the P3's kept their munitions. And I'm referring specifically to nuclear depth charges, because it was one of the most actively protected areas by the Navy—lots of barbed wire, lots of guards out there with automatic weapons.

I say this because I think we all understand the requirements these days and the concern, almost paranoia, about terrorist hijacking. It is unfortunate in our limited landmass that some 80-odd acres need to be sterilised to that degree. And actually, the question I would like to put to the Honourable Member is whether any thought has been given . . . and I think some years ago somebody suggested that we ought to put windmills out there.

I am not sure that is a great idea because they tend to extend up too high and they might clip a passing aircraft. But has any thought been given, now that photovoltaic energy generation is coming down to a reasonable level, both in cost and in terms of efficiency, whether that area perhaps could earn a few extra dollars for the Government (God knows they need it) by leasing it to BELCO or somebody else to put passive solar generation equipment out there? It does not require a lot of bodies going back and forth. And it is quite a bit of land area, and it might be an interesting possibility.

I understand the issue with respect to the vortac which is just to the east of the pier. It was a problem for us as well. It is the radio navigation beacon that you cannot have cars or trucks going by on a regular basis because it affects the signal, and it is important for pilots being able to land aircraft using the automatic autopilot landing facility, because it precisely indicates where the runway is.

But I thought it might be worth having a look at. In fact, I would commend it to the Honourable Member who is responsible for Energy these days, that it might be something that he ought to have a look at.

The other question I have is with respect to at the very eastern end here, it is the runway approach lights. Additional area has been added on. I have not been out to Southside in awhile, but I was curious as to whether those runway lights are actually there now at the very eastern end of the runway, the approach lights. We know where they are on Ferry Reach there, the causeway, because I am including those across the road. But I am curious as to whether those runway lights are in place now, or whether that is in the future plans of the Department of Civil Aviation.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Dr. Gibbons.

The Chair recognises Mr. Charles Swan, the Shadow Minister of Youth Sport and National Training, Southampton West Central, constituency 31.

Mr. Charles F. B. Swan: Thank you, Madam Deputy Speaker.

I just . . . you know, going through this (and I am not going to be too long) I can understand where the Department of Airport Operations needs to have land as stipulated by international bodies and what-have-you, you know, for the operation of planes in and around our Island.

We happen to be, I imagine, limited, but blessed because we had this airport literally built for us, but limited because it only has one runway effective for jets that land here today. Although the Finger that the Honourable Member was talking about, that 80 acres, can be used as a runway, I am sure it is only for smaller planes.

But I had two, sort of, questions that I just wanted to put out there. We have had, for years now, a bit of a reclamation effort going on at the airport. And I just wondered how those plans, if at all, fitted into future development with the airport, because I believe that reclaimed area was sort of being looked at to expand terminals and what-have-you. And most of that is fairly shallow water, although it does get deep in parts. But I just wondered what plans factored for reclaimed land in and around the airport.

And then the larger question, I guess, points to the BLDC itself. And I can imagine there must be—probably are going to be more pieces of legislation coming across us because BLDC-administered lands are going to be needed for whatever developments the Government is planning (and I am thinking of

Morgan's Point, I imagine, as one) and if there are any others that are coming across our bows.

And then the last thing, I just wanted to point out, Madam Deputy Speaker, this map that is attached with the legislation, there is a description here of . . . I guess these are the areas that comprise L.F. Wade International Airport. And the Minister, in his opening remarks, listed . . . I believe these are additional areas over and above what this map indicates? Or are they included in what this map indicates?

I guess what I am saying is, it might have been helpful to have two maps on here, one showing the existing airport, and then one showing the additional lands that are sort—

[Inaudible interjection]

Mr. Charles F. B. Swan: Yes, before and after. So one could make a proper judgment of, you know, what actually we are talking about here.

[Inaudible interjection]

Mr. Charles F. B. Swan: No, but the Minister talked about 109 (I believe it was) acres. But this map here . . . I mean, the total here is 665 acres. No, he talked about in total, I believe, the land that was going to be gotten back. But the airport in total is more than 663.

So I was just hoping that there might have been some way to tell what is there existing, what is proposed, so that you can make a proper judgment. That is all.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Swan.

Does any other Honourable Member wish to speak to the Civil Airports (Amendment of) Schedule Order 2010?

If not, the Minister in charge may respond.

Minister Brown.

Dr. the Hon. Ewart Frederick Brown: Thank you, Madam Deputy Speaker.

First of all, let me say that in response to the question from the Leader of the Opposition about whether the transfer of this land will have any impact on the future of the operations there, the answer is yes. This will allow the Department of Airport Operations to enter into a proper lease. And that is what we have been trying to achieve all along.

I think it would be inappropriate, Madam Deputy Speaker, for me to comment on the private dealings of any operator or vendors at the airport, at this point in time. To answer the Honourable Member Dr. Gibbons, yes, there is a plan to increase the lighting, as he suggested. That is in the operational plan of the airport.

With respect to the Honourable Member's, Mr. Swan's, comments about the map, et cetera, to the extent that I can assist him in understanding what we do have today, I offer to do that. The statement, though, did indicate that the new areas, the aggregate, is 123 acres. And that is what is important here today.

And with that, Madam Deputy Speaker, I move that the Draft Order be approved and that a message be sent to His Excellency the Governor.

The Deputy Speaker: Thank you.

It has been moved that the Draft Order Civil Airports (Amendment of) Schedule Order, 2010, be approved and a message sent to His Excellency the Governor.

Does any Honourable Member wish to speak to that motion?

Those in favour of that motion, signify by saying Are. Those against, say Nay.

AYES.

The Deputy Speaker: The Ayes have it. The motion is approved and the message will be sent.

[Motion passed: Draft Order: Civil Airports (Amendment of) Schedule Order, 2010, approved.]

The Deputy Speaker: The next item is the second reading of the West End Development Corporation Amendment Act, 2010, under the Minister of Works and Engineering, the Honourable Derrick Burgess.

SECOND READING

WEST END DEVELOPMENT CORPORATION AMENDMENT ACT 2010

Hon. Derrick V. Burgess, Sr.: I move that the Bill entitled the West End Development Corporation Amendment Act, 2010, be now read the second time and committed. (See? One of my cousins signed third.)

Madam Deputy Speaker, the Bill entitled the West End Development Corporation Amendment Act, 2010, represents another important milestone in the series of events that have occurred since 1998 to enrich and to revitalise the West End of the Island.

In May last year, the [Inaudible] New Heritage Wharf and Cruise Ship Terminal at Dockyard were opened to enable post-Panamax ships to dock and be an essential element of our continued efforts to be competitive in the world's tourism market. These important new additions to the West End of our Island symbolise progress, real progress made in the area of tourism, still a vitally important component of Bermuda's economy.

They reflected the Government's commitment to do all that was required to enhance Bermuda's reputation as a destination of choice.

The Pender Road widening scheme and the expansion of the Cockburn–Cut Bridge complex infrastructure improvement projects took place concurrent with the construction of the new cruise ship terminal. Widening Pender Road has not only improved considerably the flow of traffic into and away from the Dockyard area, but it also has improved public safety.

The Pender Road widening scheme was a complex undertaking that involved several elements, including the widening of the gates that have stood at the entrance of the Dockyard for more than a century. Additionally, new sidewalks were constructed on both sides of the road to help guide pedestrians through the gateposts.

Madam Deputy Speaker, recognising the considerable increase in traffic resulting from the arrival of the larger cruise ships, and in order to alleviate the congestion caused by the narrowness of the existing Cockburn Bridge, Cut Bridge, it was decided that the best solution was to build a second bridge alongside the first one, but completely separate from it.

The new bridge is a reinforced concrete part, slightly longer than the old bridge, but designed to look similar to it and to maintain the same feel for the crossing. Today, the new bridge provides a most attractive entrance to the lively Dockyard area.

The new cruise ship terminal, the widening Pender Road, and the extended Cockburn–Cut Bridge are critically important infrastructure improvements in the Dockyard area.

Madam Deputy Speaker, Members of this Honourable House, and the people of Bermuda are advised that WEDCO, with the full approval of Cabinet, has entered into a public/private partnership with US-based Clark International, the development design, construction, and financing of the South Basin Marina and commercial marine facilities at Dockyard, the latter to be constructed on reclaimed land within the South Basin.

It is significant to note that the Clark International first approached WEDCO with a proposal for a new marina for mega-yachts. WEDCO responded by suggesting what was instructed by us at W&E that, as a condition of the agreement, Clark construct affordable housing. Happily, Clark was on board. A formal announcement about a new affordable housing initiative at Victoria Road, Ireland Island, will be made on Tuesday. It would be inappropriate for me to provide more details of the affordable housing initiative before meeting with the current Victoria Road residents who will be affected.

Madam Deputy Speaker and Honourable Members, the South Basin Marina will provide a minimum of 100 new boat slips, as well as related amenities, that support the marina and enable continued growth in Dockyard. This proposed development of the South Basin Marina will provide WEDCO with a new source of revenue, additional year-round critical mass, tourism avenues, and numerous employment opportunities for Bermudians.

The commercial marine facilities will be developed on reclaimed land within the South Basin. This proposed new facility will allow for the relocation of the Department of Marine and Port Services from its location on East Broadway and its current location in Dockyard to a single location in the South Basin.

It would also allow for the relocation of the West End yachts to a new facility, resulting in operational efficiencies and expansion opportunities. The relocation of these two entities will enhance Dockyard as a community, leading to growth of retail and entertainment enterprises, along with the provision of additional parking area to accommodate increased vehicular activity in the area.

Madam Deputy Speaker, the South Basin Development, Limited, has been formed with WEDCO enjoying 100 per cent ownership. The company has been formed in order to bring realisation to the South Basin Marina and Commercial Marine Facilities Project. South Basin Development has been organised and qualified to do business in Bermuda for the purpose of developing, designing, constructing, financing, and operating these important initiatives. It is planned that the ownership of the South Basin Development will change to 60 per cent WEDCO and 40 per cent Clark International before construction of the South Basin Marina and commercial marine facilities begin. It is believed that the proposed organisational structure provides for a transparent open-book arrangement, one that clearly aligns the interests of these projects with the best interests of Bermuda.

Madam Deputy Speaker, some 61.1 acres of Government land, mainly seabed, have been identified as the location of the proposed South Basin Marina and Commercial Marine Facilities Project. Initially, it was proposed to seek Cabinet support for making of an order that would vest these 61.1 acres of Government land in WEDCO, such order pursuant to provisions of the Sanction 19(2) of the West End Development Act 1982. However, Sanction 19(2) of the Act applies only when the land designated falls within the scheduled area—that is, the area described in the third schedule of the Act, which reads as follows:

"Watford Island, Boaz Island, Ireland Island South and Ireland Island North, together with those small islets forming the Crawl of Ireland Island South and also the North and South Basins, and the breakwaters there, too, but excluding any highway as defined in section 2(1) of the Department of Works and Engineering Act 1984, Title 19, item 1."

It has been determined that 61.1 acres to be vested did not fall within the scheduled area, and that a decimation order cannot be made at this time. Con-

sequently, the Amendment legislation before the House today . . . legislation approval is being sought for an amendment to the third section of the West End Development Act 1982, whereby the scheduled area would include the 61.1 acres of Government land to be designated for use for the South Basin Marina and Commercial Marine Facilities Project.

WEDCO will need to lease land to South Basin Development to complete the project and cannot do so unless it owns the property. Once the legislated Amendment has been effected, then the decimation order can be made as originally proposed, thereby allowing the South Basin Marina and Commercial Marine Facilities Project to commence.

Madam Deputy Speaker, Honourable Members are advised that an environmental impact study is underway with respect to the 61.1 acres that are subject of the amendment. Stakeholders, including the Department of Conservation Services, the Department of Environmental Protection, the Department of Planning, various environmental organisations and businesses, and homeowners in the area are being consulted regarding the proposal.

Honourable Members may be assured that there will be no development of any kind in the 61.1 acres before the outcome of the environmental impact study is known.

Thank you.

The Deputy Speaker: Thank you, Minister Burgess.

Does any Honourable Member wish to speak to the second reading of the West End Development Corporation Amendment Act 2010?

The Chair recognises . . . yes, I will recognise Minister Burgess. It is 12:30. Yes.

The Minister has moved that we do now adjourn for lunch. And the time has come. When we return, Mrs. Gordon-Pamplin, I will recognise you when we return.

Proceedings suspended at 12:32 pm

Proceedings resumed at 2:00 pm

[Hon. Dame Jennifer Smith, Deputy Speaker, in the Chair]

SECOND READING

WEST END DEVELOPMENT CORPORATION AMENDMENT ACT 2010

The Deputy Speaker: Members we resume in House on the Second Reading of the West End Development Corporation Amendment Act, 2010, being led by the Minister of Works and Engineering, the Honourable Derrick Burgess.

At the time that we broke, I was just about to recognise on my left, Mrs. P. J. Gordon-Pamplin, the Shadow Minister for Works and Engineering and the Representative for Paget West, constituency 23.

Mrs. Gordon-Pamplin you have the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, in referring to this West End Development Corporation Amendment Act 2010, having looked at the explanatory memorandum, on the face of it, it appeared that we were going to have a most mundane debate on a rather innocuous topic.

The Minister stood and he spoke to the issue of the Cruise terminal being completed at Dockyard, the bridge and the dual carriageway which was installed, the gates widened to accommodate the increased traffic, new sidewalks and a general beautification of the area following the completion of the cruise ship pier in Dockyard. And notwithstanding that we have always acknowledged that the cruise ship pier was tremendously over budget, it was part and parcel of the beautification process and an actual practical use of the space in the Dockyard.

So when we heard about now a new natural enhancement to the South Basin, we thought this is something that we could support and we would just like to see come along and come to fruition. So, as the Minister stood and spoke of all the positives that happened, the thought came to mind about little Jack Horner who sat in his corner eating his Christmas pie; and he put in his thumb and pulled out a plum and said 'what a good boy am I.' Because that is the impression that I got—look at how wonderful we are, and look at what we have done. So I appreciated that.

However, the reality soon hit as the Minister's statement continued to unfold. We on this side do not like to be nay sayers, Madam Deputy Speaker, but one thing we do like is some semblance of chronology that makes it look as though the Government thinks first and acts second.

Now, what we have seen in this particular instance is that WEDCO needs the 61.1 acres—the subject of this amendment act—in order to complete their side of an agreement that, ostensibly, is already a *fait accompli*. We heard the Minister speak to the already incorporation of a company—and I could not get the name, I think he said something like Chub or Cub or something like that—

[Inaudible interjection]

Mrs. Patricia J. Gordon-Pamplin: —I did not think it was Career . . . but it was something in that general sort of . . . Clark. Clark or whatever it was—that there was going to be a PPP that was being entered to for the development of this commercial marine facilities

project. And now we know that with this PPP in place—which clearly has been negotiated because we heard the Minister indicate that, ultimately, there is going to be a 60 per cent ownership to WEDCO and a 40 per cent ownership to this other company, and forgive me if I did not get the name—it looks to me as though . . . and the final word that the Minister indicated was that an environmental impact statement was going to be delivered, a study was going to be undertaken and an impact statement would be delivered in due course. And then I started to think—What exactly are we dealing with?

It would seem to me that before WEDCO enters into a PPP with another entity then, certainly, they must have something to offer, something to sell. So you do not sort of say, okay, we are going to have this commercial basin being established and promoted and this marina and commercial facilities being put into the place predicated upon the PPP and the funding that will come into place by this new entity—Card international . . . if the Minister can help me with the name that would be—

Hon. Derrick V. Burgess, Sr.: Clark.

Mrs. Patricia J. Gordon-Pamplin: Clark. Clark International.

So I am thinking at the moment WEDCO is waiting to see if the environmental impact is appropriate before they are able to proceed, but yet the train is on the track to go down that path to say it is a done deal. So I am just a little concerned that we are once again putting the cart before the horse.

One would have assumed that WEDCO would have ensured that an environmental impact study had been completed because what happens if, as a result of the EIS (Environmental Impact Study), it is determined that that is not an appropriate use of that particular area? Then what? What is it that WEDCO will then have at their disposal to ensure that the completion of this PPP is effectively consummated? And that has got to be a cause for concern. Do the impact study. Figure out if this is the right use, and then say, yes, we can marry up together with this company and we can advance the concept of the South Basin Marina and Commercial Facilities Project.

Now, it sounded relatively simple that there would be the movement from the Hamilton area of the marine and ports operations and they would move up to that area. It seemed like a perfectly good and sensible use of the space that was going to be there. But then we hear about these luxury yachts and this fabulous company. So one has to ask the question which never came in the Ministerial Statement, *Under what conditions are the PPP going to operate?* Under which conditions in terms of . . . is there likely to be a lease, what is the length of the lease, how long is it operative for, what is WEDCO responsible for in terms of being able to fulfil any terms or conditions upon which this is perhaps and seemingly is predicated? I just need to understand how the whole thing is going to come together.

We also heard that there is going to be a housing component. But the Minister could not go into detail about the housing component because the residents who already live in the Victoria Row area—who will be most impacted by this new arrangement—do not know anything about it yet.

So it is like we are going to do something and it is going to be major and it is going to enhance the area and it is going to be of value and benefit to the people of Bermuda and, more importantly, to the people of the West End, but we cannot tell you about it. We are going to tell you next week, but we want the House of Assembly to agree *this* week to something that we are going to do—the terms and conditions of which we do not know, the full impact of which we have yet to be advised or apprised—and the people who are going to be most impacted will not know until next week. That is putting the cart before the horse.

It is not that we have a negative approach towards how the Government elects to either reclaim land and to make use of it in an effective manner, but it just does not make sense when you do not put things in proper chronological sequence. And it is that with which I have a tremendous concern.

So, I guess I have to ask the question, with this PPP what benefits will inure to WEDCO and ultimately to the people of Bermuda through its WEDCO holdings in terms of . . . does this PPP, is it coming into being only to do the building and then operate the marina? Are they going to do the construction? Is there going to be some kind of arrangement—is WEDCO going to be in for a penny, in for a pound on this project in terms of funding the actual development of it or is the PPP, who will ultimately have a 40 per cent share, as alluded to by the Minister, are they going to be on the hook for all the money for the development at the outset? Who is going to be paying for the Environmental Impact Study? What is going to be . . . what is the overall plan?

And I know that it sounds like an age-old beating of the drum—what is your plan? We do not hear it. We see steps being taken that have not been sufficiently set out in the Minister's statement or in the Bill—which is relatively straightforward, the Bill itself.

So we are just trying to pull the pieces together and understand the overarching intent of WEDCO and the extent to which WEDCO may be financially on the hook—whether initially or ultimately, that WEDCO might be on the hook from a funding perspective. And if WEDCO is on the hook then that would also impact the funds that would have to go into WEDCO from the consolidated fund. So we just really want to make sure as to what exactly is the overall plan.

Now, I think it is very important because the terms of reference that will come into play with this particular operation—especially that of the Commercial Marine Facilities Projects—we would like to know exactly what is happening with respect to these yachts, and this yacht basin, that seemingly is part and parcel of this development deal.

Because you will recall, Madam Deputy Speaker, that in the other end of the Island we have a situation in which the Town of St. George's is really jockeying to try to encourage yachts to come in to help to increase the revenues for the Town of St. George's. And if we are now going to have the situation being enabled in the Dockyard area—perhaps even to the detriment of St. George's—I am just a little concerned. And I am sure you would be a little concerned as well, Madam Deputy Speaker, not that I wish to put words in your mouth—

The Deputy Speaker: Yes.

Mrs. Patricia J. Gordon-Pamplin: But I am certain that the reality of sharing the load and sharing the balance and sharing the benefit has to be a primary consideration when we are looking at something that is of this magnitude.

So I would like to have some indication as to what the terms of reference are respecting the operation of this marina once it comes on line.

Who is doing the prep work? Will we be hearing from the same contractors that we have heard from from time immemorial? They seem to be the experts now at particular areas of dock reclamation and preparation.

Or is there likely to be somebody else coming down the pipeline to have the opportunity? Or are we going to say that we have permitted one or two companies to have—to develop—the expertise at the taxpayers' expense and now being the experts are now the only game in down. I am concerned about that. I need to ask the question—

Hon. Zane J. S. De Silva: Point of order.

The Deputy Speaker: There is a point of order. Take your seat.

The Chair recognises Minister Zane De Silva. What is your point of order Minister De Silva?

POINT OF ORDER
[Misleading]

Hon. Zane J. S. De Silva: Thank you, Madam Deputy Speaker.

The point of order is the Honourable Member is misleading the House.

Mrs. Patricia J. Gordon-Pamplin: I asked a question, I did not mislead the House.

Hon. Zane J. S. De Silva: She is misleading the House.

The Deputy Speaker: In what manner?

Hon. Zane J. S. De Silva: She mentioned the fact that is this same old contractor, now that he has gained experience off of Government jobs, going to be given carte blanche in the future?

The Deputy Speaker: That is a question.

Mrs. Patricia J. Gordon-Pamplin: It was a question.

Hon. Zane J. S. De Silva: No, what—

The Deputy Speaker: That is a question and the way you phrased it is a question—

Hon. Zane J. S. De Silva: Yes, yes.

The Deputy Speaker: —and a question is not misleading the House.

Hon. Zane J. S. De Silva: Well . . .

The Deputy Speaker: This is not a matter for speeches.

Hon. Zane J. S. De Silva: No, the Honourable Member made a statement.

Mrs. Patricia J. Gordon-Pamplin: No, I asked a question.

The Deputy Speaker: It was not a statement. That was a question. What you have just repeated is a question, Minister.

Hon. Zane J. S. De Silva: Yes.

Mrs. Patricia J. Gordon-Pamplin: And what I said was a question.

The Deputy Speaker: And, if you do not have a real point of order, this is not the opportunity to just make a speech.

Hon. Zane J. S. De Silva: Okay.

The Deputy Speaker: Thank you.

Continue.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, I think my question was pretty precise. We just want to understand whether there is preferential treatment being given based on expertise having been developed and will any other entity be considered for doing the reclamation and the beautification and whatever else is going to be required of the terms and conditions that come along with the acquisition by WEDCO of this particular Queen's bottom, as we would call it.

I would also be concerned as to whether any additional buildings will be required to be put in that particular area. I am sure that there would probably be something on the order of a marina accessibility station or something of that sort. Certainly, there would have to be certain securities that would come into play because when you are dealing with boats and mainland.

Not reflecting, but we saw legislation that we debated respecting security around coming and going of cruise ships and the timeframes within which areas would be considered to be restricted. And the question would beg, are similar types of plans being formulated for this particular area as well? Because, you know, there is an awful lot of ocean out there and there are an awful lot of boats out there. I think that if we have to show concern for security of our borders, it is just a question as to whether, in fact, that is part and parcel of the plan that may have already have been hatched between WEDCO and the Clark International.

So I just wanted to know that ultimately the benefits that inure will be spread to the people of Bermuda through the consolidated fund, or to the West End in terms of the amenities that will be provided, and that the whole plan of this area is something that we can support—the concept. Yes.

From the information that we have thus far I think it is almost as though we are putting the cart before the horse and we have yet to understand enough of the underlying overall scheme in order to be able to support it wholeheartedly.

So, if the Minister would be good enough to respond to those very basic questions and know that it is more the intent of this side of the House to support those things that the Government is trying to do—but only to the extent that it satisfies the acid test.

And right now with the sketchy information that we have, and given the lack of information for, as I said earlier, those people who will be most impacted from a housing perspective, what is happening as far as the low-cost housing is concerned? Because we are now being asked to approve this and we are told that there is going to be this low-cost housing scheme—affordable housing, sorry—affordable housing plan that is coming down the pipeline of which we have no knowledge.

So, what is to say that the type of development that is anticipated is going to be one that we kind of buy into? We do not know because we do not have the details. I am not suggesting that we will not, I am not suggesting that there is anything wrong with affordable housing. But it is just kind of nice to be able to see the entire picture. And when you can see the entire picture, it is a lot easier to support the concept.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you Mrs. Gordon-Pamplin.

Does any other Honourable Member wish to speak to the West End Development Corporation Amendment Act, 2010?

The Chair recognises the Honourable W. M Lister, Sandy's South Central, constituency 34.

Mr. Lister you have the floor.

Hon. Walter M. Lister: Thank you, Madam Deputy Speaker, for the opportunity to say a few words on the West End Development Corporation, which I think anybody having gone to the West End and visited the Dockyard in the last two, three or four years can only say the progress is very good. And it is not only good because we have put a lot of hard work in there.

The questions which have been raised—I am sure the Minister will be dealing with those—but I would just like to say that, for example, the marina that has been there . . . and we have met Clark and we have found these people to be very straightforward. We find, you know, we are very comfortable doing business with them.

And people come with all kinds of ideas and suggestions and we at WEDCO have some suggestions, too. Therefore, the idea of the marina did come about. And we thought it would be a great idea to develop this thing.

It was not developed with the idea of taking business from the East End because we foresee this particular facility being developed whereby it will have the amenities which will save some of the ocean-going-yachts from having to go all the way to the Caribbean—deep in the Caribbean—for service. And oftentimes a lot of these ocean-going yachts which are up along the east coast here of the United States travel all the way deep in the Caribbean for service or to be housed during the winter.

We are trying to develop a whole new business. We are going to develop a whole new area. That is the objective of the whole process. And the business is there—we have looked into it. And, you know, if you build a process, people will come, and we think they will. Plus we have done studies, Madam Deputy Speaker, to see that this can happen. And, you know, in any business we constantly look to the future to see just what the situation is going to be.

To ask for the process of what we are trying to do now and say we do not know this or what is going to be, yet you ask us who the contractor is going to be—and we have not gotten there yet. So the Opposi-

tion seems to get out of step in sequence as to how this thing should be done. And we are taking it on step by step—we are not racing the process. We would like to get it done. Because we feel that at the end of the day it is going to service all of the people of the West End and Bermuda in general.

For example, the bridge which the Department of Works and Engineering put in last year—that was with foresight, we foresee more people coming. And with the single bridge, it was tying up persons—one on one side, one on the other—and buses were finding it a bit difficult getting through there. So, foresight on the part of this Government, we decided we would put the second lane in.

[Inaudible interjection]

Hon. Walter M. Lister: And we thank you for that, we thank you for that.

The second step is that we decided that we were going to widen the gates. When I was Chairman in Dockyard the first time I attempted to widen the gates. And I invited the Historic Buildings Committee up and I served them lunch and we had quite a nice time until I told them that we were going to widen the gates and all hell broke loose.

[Inaudible interjections]

Hon. Walter M. Lister: *[laughter]* And all we were trying to do is modernise Dockyard because it is an old facility—

[Inaudible interjection]

Hon. Walter M. Lister: Well no. We do not mind giving people lunch but we want you to understand what you are coming for. Anyhow, they were very much opposed to that.

But the way that the Minister and the WEDCO have widened it now, it eases traffic both ways. And there is no bottleneck. So, you know, the Historic Buildings Committee has a responsibility and I respect their position. It is not that I disrespect that, I do. But there are sometimes that commonsense must prevail and this is one of those situations where commonsense must prevail.

And, you know, we have moved forward—that gate was put there 200 years ago plus—and there we are now trying to retain it, and it was not working in this day and age. So we felt that all we were going to do was take the same material that was put there 200 years ago and step it back so that nothing would be lost effectively there. And when you go through there now, as a matter of fact, it is a wonderful, wonderful front to the Dockyard. As you know we have done the pair. Of course, we have received much criticism from the pair because of its expense.

But let me say this—the taxes we received in the last year superseded what the entire expense of that dock was. And, guess what, we are going to get that tax again this year, next year, and every year hereafter. So for people to criticise over silly little things, I think wastes time because that dock, Madam Deputy Speaker, paid us . . . the taxpayers paid us the taxes we raised on that dock last year.

And on top of that the second cruise ship, Madam Deputy Speaker, gives us a wonderful opportunity to service more tourists. And the thing about it is here we are trying to attract people to Bermuda and the Opposition has got their foot on the brake.

[Inaudible interjections]

Hon. Walter M. Lister: Well, you are. You are criticising . . . here you are criticising the dock, you are criticising the dock. You have got your foot on the brake. Take it off so we can move forward—that is all I am saying.

[Inaudible interjections]

Hon. Walter M. Lister: That is all I am saying. You cannot have it both ways.

Dr. the Hon. E. Grant Gibbons: Point of order, Madam Deputy Speaker.

The Deputy Speaker: Point of order—wait a minute. I will hear the point of order from Dr. Gibbons.

Dr. Gibbons?

POINT OF ORDER

[Misleading]

Dr. the Hon. E. Grant Gibbons: The point of order is that the Honourable Member Mr. Lister was misleading the House.

The Deputy Speaker: In what way?

Dr. the Hon. E. Grant Gibbons: The total amount of taxes taken on passenger taxes last year or so amounted to about $30 million. And that includes the airport as well. So there is no way that that dock could have been paid for in one year, let alone quite a few.

The Deputy Speaker: Thank you, Dr. Gibbons.

Mr. Lister can you uphold your remark with some evidence?

Hon. Walter M. Lister: Yes, I can. The Dr. Gibbons has mastered the art of pulling figures out of a hat and he has done it again this afternoon, Madam Deputy Speaker.

[Inaudible interjections]

Hon. Walter M. Lister: But the point about it, Madam Deputy Speaker, is that that dock is going to go on bringing in taxes for this country for many years to come.

The Deputy Speaker: Yes. But your statement was that it did it in one year.

Hon. Walter M. Lister: Yes, yes, I still hold that.

The Deputy Speaker: So you are standing by that statement?

Hon. Walter M. Lister: Sure, sure. I am not prepared to move on that.

The Deputy Speaker: So you will provide some evidence to the House—

Hon. Walter M. Lister: If they want it I will see if I can—

The Deputy Speaker: In support of that. Okay, thank you.

[Inaudible interjections and laughter]i

Hon. Walter M. Lister: You are welcome to come. You know at WEDCO we have an open door policy and you are welcome to come—

[Inaudible interjections]

Hon. Walter M. Lister: —you are welcome to come at WEDCO and—

[Inaudible interjections]

Hon. Walter M. Lister: Huh? I would like to drop it on—

[Laughter]

The Deputy Speaker: You do realise we have *Hansard.*

Hon. Walter M. Lister: Yes, that is right.

[Laughter]

Hon. Walter M. Lister: Yes, and I would like to invite them, Madam Deputy Speaker, to come out and visit us at Dockyard.

[Inaudible interjections]

Hon. Walter M. Lister: Well . . . well . . . we would see if we could find something for you. You know . . .

But I think that when you look at the achievements and the progress we have made in Dockyard, I think we have come a long way and there have been a lot . . . a big effort of many persons, not just us in the Government—a lot of persons.

And the thing about it to say are we going to select this contractor or that contractor—we are not there yet, we are not there yet. And to presume what we are going to do . . . we cannot answer that question. We fill out a number of RFP's at Dockyard, and the thing about it is that we try to give them each a fair hearing. I do not care whether you have been there all this time or if you are new—you will get a fair hearing. And, you know, this is what we try to do.

And I will try to encourage the Government—the Opposition—to understand that process.

[Inaudible interjections]

Hon. Walter M. Lister: Well, you know, we will tell you what you do need. There are other things which will be coming along to develop and enhance the progress. We may not have all of our ducks in a row on that area, so it is not our position to say it at this point in time because it may change, and as you know, as projects go along there are some things that do change as we go along. They develop, they get better.

So, Madam Deputy Speaker, we are doing a good job there . . . we are happy with the job—and it sounds like the Opposition are very happy with most of the things we do too. But I—

[Inaudible interjections]

Hon. Walter M. Lister: Yeah, okay . . . I am not sure why all the criticism comes.

But I invite them to come out and take a look around Dockyard. It is a very beautiful area and many tourists come there and I believe it is the most visited tourist destination on the Island. And we are proud of it and we try to keep it in shape so that not only the tourists enjoy it, but the locals come and share in the progress as well.

Thank you.

The Deputy Speaker: Thank you, Mr. Lister.

Does any other Honourable Member wish to speak to the motion that the West End Development Corporation Amendment Act, 2010, be now read a second time?

The Chair recognises Mr. C. F. B. Swan, the Member for Southampton West Central, constituency 31.

Mr. Swan, you have the floor.

Mr. Charles F. B. Swan: Thank you, Madam Deputy Speaker.

I just listened intently to the Honourable Member who just spoke and . . . yeah, I was trying to find out where we were speaking to the legislation but, anyway—

[Inaudible interjections]

Mr. Charles F. B. Swan: And I realise his intimate involvement with this particular . . . I do not know what you would call it . . . project, and what have you.

And you know, I think I have a little bit of commonsense. As a matter of fact, I think it is the only thing I really rely on to get me through life. And my commonsense causes me to ask a few questions or pose a few . . . I guess, scenarios and what have you and some questions.

Now, Madam Deputy Speaker, first of all, attached with this legislation is a map delineating I guess what is now the *new* South Basin, because there already is a South Basin named on the map. And, one of the things I would like to find out (and I will get to other questions as well which may be related) . . . You know, the Dockyard was built many, many years ago, and it has not cost us a penny. And there is a large body of water enclosed by both the North Basin arm and the South Breakwater.

And I am trying to get a picture as to what sort of thought process, and the Minister mentioned studies, or the Honourable Member who just spoke mentioned studies, led to what we are looking at here which is [the] taking over of a very large portion of what we will call the Queen's bottom—which belongs to everybody, no one can own it—and . . . what is it . . . 61.1 acres. And you know, Madam Deputy Speaker, I am a boater and I travel through there quite a lot.

But what thought process has led to literally taking that out of the public domain and making it now what will eventually be private?

And I would like to sort of go a little further with that question. The Honourable Member mentioned that there were studies done. And I believe we all know that last year in October there was a delegation that went to a boat show, and I believe this whole project was touted at this boat show. I do not know the form of it or what form it took or who was invited or what have you. And at the time, I believe, there was a company called Westrec who were, I guess, the partner, or determined to be the partner in this project to develop, design the whole thing. And so, again, I am wondering at the process that changed from Westrec, unless they are still involved, to Clark International. So, these are all questions I am posing.

Now the fact that it is Clark International is fine. And, you know, Madam Deputy Speaker, again, these are lands or areas that I believe rightfully belong to the people of Bermuda. There are businesses along the foreshore bordered by part of what is being, call it, "annexed." And one wonders, you know, when you get to public/private partnerships—and I believe the Minister who spoke for this mentioned eventually 60/40—and I assume the 60 per cent is Bermudian, and I assume the 60 per cent is WEDCO, but I would like some clarification on that. The other 40 per cent, I am assuming is Clark International.

So, Madam Deputy Speaker, I am sure the Minister would be quite willing and able to outline . . . Well, who are the shareholders in Clark International? Not that I have never heard of them, but I believe the public would like to know who is owning 40 per cent of land that is being taken away from them.

The other thing I would like to address is—the Honourable Member who just spoke, Mr. Lister, talked about there were studies done. And, yes one must do studies before one commits large amounts of time and public money to large-scale projects. Now, can the Minister share with the people of Bermuda what studies were done to lead to make this the business proposition that is leading to this legislation?

And I imagine the Minister . . . some sort of study as to the number of mega-yachts that would traverse the area, the availability of suitable repair facilities. The information on this must have been sought, and feedback as to the need that is in that, call it, "super mega-yacht" community, Madam Deputy Speaker.

Most mega-yachts do not stop here, we all know that, they go right past us and they head to the Caribbean for the season down there, which is sort of December to March or what have you—four or five months. And then they go back to the Mediterranean for the summer season and to other places. Now, I know, and I am sure other Honourable Members know, that the types of facilities that these . . .well, call them the owners, the people, some of them are corporations that own these yachts . . . the type of facilities that they look for are first class and require specialised knowledge, specialised equipment, all manner of things to do with fiberglass, machinery, electrics and the like.

I wonder if the Ministers, in the studies they have done, identified what could possibly be offered here in Bermuda that would make these owners and corporations of these super mega-yachts . . . what would make them come here, as opposed to the United States or the Caribbean? Now there are not a lot of facilities in the Caribbean, I will admit; but I do believe one is being built in St. Kitts or is planned in St. Kitts

Now, our cost structure, we all know, is quite substantially more than either of the places I have mentioned. And notwithstanding that, whoever comes on board with staffing and what have you, yes, they may make [use of] some local labour but I am going to imagine that there is going to be a high proportion of it

that is going to have to be imported, Madam Deputy Speaker. So I am posing those questions.

I am not against trying to generate new revenue streams for the Island. I am a business person. But the model to me does not quite seem right here and, as I said earlier on, I really do have a problem with removing 61 acres of water from the public domain and putting in private hands. I do not think in an Island our size, I believe . . . a colleague of ours always alludes to the fact of 14,000 acres, or 13,000 acres of Bermuda, and here we are taking 61 acres of water and handing it over to private enterprise.

So, these are things that . . . You know, the Government is the Government, and they have to do what they feel best. But I believe the people of Bermuda do need some sort of explanation as to how we got to where we are. Given the plan that is here . . . there already is space in the South Basin, why not use that, why take this land?

You know, who are the shareholders of these private companies that we are partnering with? And the other questions that I have posed.

Thank you very much, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Swan.

Does any other Honourable Member wish to speak to the motion that the West End Development Corporation Amendment Act 2010 be now read a second time?

The Chair recognises Dr. Grant Gibbons, the Representative for Paget East, constituency 22.

Dr. Gibbons, you have the floor.

Dr. The Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, just listening to the debate, so far, I guess have a couple of questions as well.

I think we all appreciate that what the Minister is doing today is coming to this House essentially asking for approval to transfer 61 acres of land—sorry, land mostly covered by water—to the West End Development Corporation. And that will then be followed by a commercial transaction (I think he described it as a PPP) which effectively will then lease that property to a combination of WEDCO and a private sector developer. And I think that part of the issue here is, as two of my honourable colleagues have raised, the fact that we are talking about public property here. And, while we understand that in order for WEDCO to be able enter into an agreement it obviously needs to be either lessor or the owner of this particular property in the first instance. So we understand the steps here.

But the fact of the matter is it would be, I think, enormously helpful—not only to Members of the House, but also to the public out there—to have a little bit more information on exactly what this deal is, this private/public partnership, that the Minister alluded to, because that might make us feel more comfortable in terms of giving approval for this public property to be transferred to WEDCO and to this, I will call it, consortium.

And my honourable colleague has asked some additional questions about who is behind it. I am not entirely clear, Madam Deputy Speaker, did this particular company—Clark—did they actually approach WEDCO or Government in the first instance? Or did they respond to an RFP looking for partnership with WEDCO in developing this particular 60-odd acres as a yacht basin and other facilities for yachts?

And if there was and RFP, when did that happen? How many others were actually invited to bid on that Request for Proposal? Or was it simply a one-off where the Government, or WEDCO, has now decided that Clark is the appropriate partner in this?

And I guess that, sort of, raises other questions. Surely, if Government has decided that they are going to proceed with this, they must have some sense of what the consideration is here—in other words, how much will Government get out of this on an annual lease basis? What is the split of revenue? How much money, if any, will Government or WEDCO be putting forward to develop this?

Are there any other local partners involved? My honourable colleague, Mr. Swan, asked who the shareholders behind Clark were. I think it is a very valid question. Is it a private company with individuals or other entities behind it? Is it a public corporation?

I think these are all valid questions, because I think if we are going to be transferring public property here we ought to have a clear sense of, as it were, where it is going.

We have had a number of concerns raised in this House about a leasehold. Will the Minister be coming back to this House with a lease for the House giving permission for Clark and WEDCO to have this for more than 21 years? Is that the intention here? Will the Minister be tabling a lease at some point? Will the Honourable Member, the Minister, be essentially giving us some sense in detail of the terms or arrangements behind this public/private partnership?

I think all these are valid questions which we, as Members, up here should be asking before a transfer of this, I will say, magnitude takes place from the public sector effectively to a group involving the private sector. I certainly, for one, would feel a lot more comfortable if I had some of those details before we give any blanket permission here to transfer this amount of property.

I think on the environmental side, certainly any additional amount of vessels coming in with, sort of, effluent sewage and things of that sort . . . You know, all of that oil, petroleum. We have got enough coming up from down south probably in a month or two. Is that environmental impact statement one that

is going to be shared with this House and with the people who live in the West End? Because they will obviously feel the impact of that; it is not just going to be confined to this Dockyard area.

So, I think there are a lot of questions here. And I know the Minister, the Honourable Member, did give some explanation, but I think it is fair to say, Madam Deputy Speaker, it was a very limited explanation. And I think, frankly, that this House is entitled to a more detailed explanation of what all this is about, what the impact is going to be on the West End both environmentally, and what the impact is going to be on WEDCO and the public purse with respect to this particular arrangement.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Dr. Gibbons.

Does any other Honourable Member wish to speak to the motion that the West End Development Corporation Amendment Act, 2010, be now read a second time?

The Chair recognises the Honourable and Learned M. J. Scott, the Representative for Sandys North, constituency 36.

Minister Scott, you have the floor.

Hon. Michael J. Scott: Madam Deputy Speaker, thank you.

I certainly rise in order to be supportive of the Bill, [brought] by the Minister of Works and Engineering. Which, of course, is a Bill to incorporate into the schedule of the West End Development Corporation Amendment Act, 2010, the 61 acres of Her Majesty's bottom so that this now scheduled property becomes part of the West End Development Act so that the development—the exciting and positive development—plans can progress and proceed.

Certainly, I believe that everything associated with the Minister's Bill here this afternoon is positive news for the West End, and for the country as a whole. Because it is a large project, and it is a tourism related project, it is a job-creating project. It is a job-creating project in the construction phase, but because it is going to lay down marine infrastructure, it is going to be jobs for the future for people of Sandys Parish, in particular, and certainly, possibly and most likely, for people of the country as a whole.

And so there is nothing but positive implications connected with the Bill. And as the Representative for Sandys North, I am supportive of the marina. I have had the opportunity to meet with the contractor who is partnering in the three P arrangement—Clark. And they are well known internationally.

I am sure Members of the Opposition who are raising queries about Clark are able to discover that they are a most reputable company. They operate out of Washington (that is where I went to meet with them), they are involved in military contracts, commercial contracts, contracting, residential contracting. But they have deep experience in the military residential construction. And I think that the Honourable Member, Mrs. Gordon-Pamplin, may not have had the name right. But it is "Clark," in the Washington area. And you will find them, I am sure, around different parts of the United States.

I had the opportunity to meet with their principals, they were people who were . . . and it was in connection with the housing element, which the Minister referred to. And I do not wish to trivialise the brief that he presented by going deeply into it.

I can say as the Member for the parish that I have canvassed with my constituents. They are aware, ever since I took that constituency in 2004, that 100 homes proposal was coming. And Minister Burgess, with his efforts with WEDCO, is now close to delivering these 100 homes. We are very happy about this. So they do know about it, but Minister Burgess wants to be sure that we have a sensible and good public meeting with the residents where we all have an opportunity to understand what is going on.

Today's item, of course, is about scheduling land mass. And that is why the brief is restricted to these four corners of acquiring into the schedule of the Act the Queen's bottom so that this marina—which has all of these positive benefits to it—can be progressed. And I am happy to support it.

The Minister of the Works and Engineering and I share an ancestor. And I have been so impressed with the fact that Minister Burgess has been engaged . . . I do not know whether we have to declare interest—

[Inaudible interjections]

Hon. Michael J. Scott: —but I have been so impressed with the amount of activity that the Minister of Works and Engineering has been devoting to the Sandys area—particularly Sandys North. We have heard the reference to the bridge and that is infrastructure that was welcomed and needed.

Ever since Her Majesty's visit in November last, there were huge levels of effort to prepare the parish for her visit to the West End Development Corporation and the Dockyard generally. And so the parish is actually blossoming, and that part of the country, and Dockyard in particular, is blossoming with the waste management plant—all good infrastructure—because with the new pier that is there meeting the waste management elements there, to manage waste has been necessary.

And now comes the item which the Minister of Works, the Honourable Derrick Burgess, is introducing today the marina, associated—and I do not shrink from it—with a housing element of which I am most pleased and the constituents of Sandys North are very pleased.

So, when the former Minister and the West End Development Chairman, the Honourable Walter Lister, mentioned the pier and the revenue that comes from that new pier at Heritage Wharf, notwithstanding the figure that he quoted, it strikes me that the Opposition's preoccupation, of course—proper preoccupation with looking into the whole question of cost and the value for money—the pier will generate revenue. One day that pier, therefore, will repay the cost of its construction. And I am happily reminded by the Honourable Member, Mr. Lister, that this is going to happen.

So, this is the picture in Dockyard, I commend the Minister for getting this matter moving this summer and in this session so that he can continue to progress with the partner, Clark Construction, and the WEDCO Board. These important and positive developments for the marina.

And so, I rise to say thank you, and to say that I fully support this initiative and I look forward to its continued progress.

Thank you.

The Deputy Speaker: Thank you, Minister Scott.

Does any other Honourable Member wish to speak to the motion that the West End Development Corporation Amendment Act, 2010, be now read a second time?

The Chair recognises Mr. Kim Swan, the Representative for St. George's West, constituency 2, and the Opposition Leader.

Mr. Swan, you have the floor.

Hon. Hubert (Kim) E. Swan: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, I am obliged to the Honourable Minister who just took his seat, who speaks for constituency 36 where this particular West End Development Corporation Amendment Act speaks to specifically.

I just need to re-emphasise that it is important, when you are speaking about a significant amount of land in a country that has very limited open spaces, that we are as transparent as we possibly can be. And I think some of the concerns that are raised in this particular area are quite genuine. I think when you are talking about public/private partnerships and you are talking about 61 acres of property going into private hands, it is incumbent upon the Government to provide that information up front.

I am obliged to the Minister who just took his seat for saying as much as Clark is in Washington, DC—because it is through Martin Technology that I am able to look up quite a bit. Because I was just putting in Clark and I got, you know, Clark shoes—you know, most of us are familiar with Clark shoes and that kept coming up. I guess for this PPP there is some significance in that because Clark seems to be a shoe-in for getting 61 acres, without us knowing too much about who Clark is!

And I think it is incumbent upon us to ask the question. But, more importantly, before Government comes forward with legislation like this—that is going to provide in the hands of private individuals significant portions of our open space—that it do better than providing a shoe-in for a company who we know nothing about and know not of who the people are. That is the least that they can do.

I certainly feel that Government should quite possibly even rise and report progress, and if it says that it is going to come next week, you know, do the right thing by this and provide us with greater information. I mean, if the Honourable Members from Somerset are okay with giving away the people of Somerset's valuable open space, then go there and face them on the doorsteps and tell them. But I am concerned.

And do you know what else concerns me, Madam Deputy Speaker? I heard through the discussions of other Members that this particular amendment Act is going to have some impact on the good people up in Dockyard there, Mary Victoria area. Yes? And, I want to say I do know some of those people. They have names. Some of them are good friends of mine and helped raise me. You know, we certainly helped you funeralise Mrs. DeRosa not too long ago. She had a very profound impact on my life. I know Mrs. Curtis that lives in there, I know her family and they know me.

I know I can speak quite confidently that they know that if they have some concerns, they can certainly call, and because of the good fast ferries that are now in place I can get to Dockyard probably as quick as their MP gets back to Somerset.

[Laughter]

Hon. Hubert (Kim) E. Swan: But I am here to say this: This is a concern! Because it is not good enough, Madam Deputy Speaker, for the Government to come here and to tell people that everything is going to be all right, take my word for it. We know what happened up in WEDCO once before when someone did that—they told a gentlemen with regard to . . . you know, I just heard a joke that said this seems like a silo-mentality, not realising that just with the cement silo we saw how private partnerships end up in disaster. That was under the same WEDCO—this same West End Development Corporation turfed out a private businessman, turfed him right out of business—cast him aside. And today they want us to just take their word for it. It is not good enough!

And, Members, it is not good enough for your residents and your constituents up there in the good parish of Somerset. There are good people I know who have had to live with . . . and guess what? I have

had to go up to Dockyard and talk to some of those very same constituents. I have been in their homes. And, yes, I had to go. And not just long before Mrs. DeRosa died, she had to call me. And in my absence, on one occasion, Mr. Charlie Swan had to go up there and deal with some of the issues. So it is real.

[Inaudible interjections]

Hon. Hubert (Kim) E. Swan: Well, it does not matter if she what other P anybody is; it is whether or not they are a Bermudian and whether or not they are being represented by the people that they have elected and whether or not they should be given the proper respect.

I have seen people turfed out. I remember it on Anchorage Road out in North Shore and St. George's how some of these things take place and it is not good enough. And I am not going to sit by idly and let the good people up in Dockyard, you know, get hoodwinked by Members that are saying, "trust me." It was wrong when it happened to the Bermuda Cement Company up in Dockyard—by this same WEDCO. And the way they are going about it now is wrong.

Rise and report progress on this particular motion, and come with more details because it is not good enough to have a Clark shoe-in for the Clark Company up in Washington, D.C.

More Bermuda property going overseas to people we do not even know, while Bermuda is going to sit by hungry, jobless and without any concern . . . without knowing what the future holds.

Government, you have got to come better than this.

Thank you.

The Deputy Speaker: Thank you, Mr. Swan.

Does any other Honourable Member wish to speak to the motion that the West End Development Corporation Amendment Act, 2010, be now read a second time?

I recognise the Honourable W. H. Roban, the Representative for Pembroke East, constituency 15.

Minister Roban, you have the floor.

Hon. Walter H. Roban: Thank you, Madam Deputy Speaker.

It is so unfortunate the public must be often subjected to histrionic, seemingly, you know, unfocused banter in this House that seemingly tells us nothing about the issue that we are debating.

I have listened carefully to the Opposition's statements around this. Some seem to be relevant or, sort of, worth listening to, but little has been, Madam Deputy Speaker. Certainly, I was well informed by the presentation by the Honourable Member, Mr. Walter Lister, who has vast experience with WEDCO and the West End—more than any Members on that side of the House who have just spoken. I can speak to the real issues that WEDCO has dealt with, will deal with, and are planning to deal with.

But, Madam Deputy Speaker, what I would like to say . . . as I say I have heard quite a bit. I would first like to say that I am excited by the piece of legislation that the Honourable Member, the Minister for Works and Engineering is bringing—the West End Development Corporation Amendment Act, 2010, because it is clearly in line with what has consistently been this Government's purpose—to bring change, to bring development of our people and our opportunities, to bring a sense of vision to places where there was none prior to us being in Government.

I am quite familiar to some degree with what WEDCO was prior to us being there, and it is not what it is now. It certainly is not what it is now. The life and activity in the West End as it relates to WEDCO is unprecedented. The opportunities for commerce and activity and engagement by Bermudians down there now are unprecedented.

Seemingly, the Opposition criticises some of the directions or decisions taken. And the honourable speaker prior to myself alluded to this handling of a certain matter. But, you know, giving someone a lease for 40 years where no one had the opportunity or right to bid for it . . . was that good business? Was that an opportunity for Bermudians? Was that empowerment of the aspirations and dreams of Bermudians? I think not. I think not.

Which is why the current WEDCO administration moved to change that situation where no one is afforded such uninterrupted ability where there should be opportunity. And that is why I congratulate the persons at WEDCO and the Minister for bringing what they are bringing here, because things must be done outside the box.

I did hear some discussion about the pier—about which the Opposition has had much to say—that is now currently in the Dockyard; what I have found, Madam Deputy Speaker, to be perhaps one of the most fulfilling and important engineering developments that we have had in Bermuda for a number of reasons. First, it has given us the capacity to stay in an industry that we must be in—the international cruise ship industry—in a way that the situation prior to that did not afford. Neither Hamilton nor St. George's had the capacity to provide us with a competitive edge. Thus, the Dockyard.

Frankly, both of those bodies that are responsible for those areas were not interested, at least at that time, with making themselves available to be competitive—in the interests of Bermuda, I might add. The Dockyard has been facilitated, in the interests of Bermuda, to maintain a space for more than one Post Panamax ship. We have cruise ships there every day. It seems to me every time I look—going in my car—

down on to the North Shore, when I look toward Dockyard I see a ship. And that is Monday to Sunday. It seems almost weekly, every day there is a ship there that is providing revenue, earnings, job opportunities and capacity for this country to stay in business in ways that did not exist before. And that is good.

And there was some allusion to some facts about the figures. Well, I think the figures are fairly clear—and I am sure the Minister can provide them in due course—that the revenues earned as a result of the Dock development down there will pay for the overruns that are always alluded to by the Opposition. And if it has not been paid for in a year, I can argue—and I am prepared to say this, and I am sure the Minister will correct me if I have to be because the Minister is the only one I am interested in knowing the facts that can correct—is that within five years of earnings, the full course of that Dock will be paid for because of the additional revenue that we have earned as a result of it. And that to me was good. That is good. Right?

That means that the investment that this country has put into that Dock will pay for itself. It is not just sitting not being used. It is providing this country with good revenue, good economic activity, good jobs for many years to come.

And fine. Even the Honourable Premier apologised for those cost overruns on that development. But the development was necessary and is doing good for the country, as is this development which may come about as a result of this legislation.

I did hear some other facts . . . well, not facts, but I heard statements alluding to certain things about marinas and other parts of the Island and perhaps being denied. And there seems to be a lot of commentary about that, Madam Deputy Speaker, about St. George's versus other parts and what St. George's has not got or what is being denied. Well, I think there is one thing. While balance can be actually always pursued and reached, Madam Deputy Speaker, but those persons who are involved in the process must seek the balance, must want it, and must have a vision for it.

I would suggest that those who have had the responsibility for the administration of St. George's—and I am not talking about the elected representatives who sit in this democratic House—

The Deputy Speaker: Yes.

Hon. Walter H. Roban: —I am talking about those who are elected in another House that has certain legislative authority. And they are business partners in that region. They had every opportunity to pursue and to seek the interests of developing a marina.

In fact, I speak, certainly, having had the interest of being a member and chairman of the Port Authority for nearly 10 years, knowing that these discussions had come about and in interest to give something to St. George's that might be of interest to those who are down there because clearly the Port Authority did have some responsibilities down there as there is a port in St. George's. That, perhaps, if there was a deficit in the opportunity in the long term to receive larger ships, perhaps having a marina that could service luxury yachts might be an alternative for St. George's.

The so-called city fathers, if I can call them that, of St. George's were not interested. They were not interested in even entertaining the idea.

So here we are, an area which is more so under the Government's responsibility—the West End Development Corporation—clearly has embraced the idea and there are complaints. Well, even when it was proposed for the area of St. George's it could have had the same effect that it is having in Somerset, of enhancing the product that is Bermuda. But, clearly, some people's visions and thoughts could not go further than perhaps the bridge or the Causeway. And that is unfortunate, Madam Deputy Speaker, and I know you, as a St. Georgian, do not have such limitations. I know that for certain, as do others who are from the great area named St. George's. But certainly others do and that has been to their detriment I must say.

[Inaudible interjections]

Hon. Walter H. Roban: To their detriment and to the country's detriment. But perhaps there is still hope for St. George's in this dynamic because St. George's has been a traditional yacht port of sorts. Perhaps there are things that can help them. But, ultimately, those who are the—

[Inaudible interjections]

Hon. Walter H. Roban: —those who are, Madam Deputy Speaker, those who are the masters of commerce and business in St. George's and economic activity need to get their marbles together—and I mean the marbles in their heads—and begin to think about what they can do to begin to bring St. George's on this level into the mainstream and to be more a part of that potential vibrant economic activity.

Instead of [asking] who is going to *give* them the money for these things, begin to talk about how they are going to *earn* the money. How are they going to make St. George's attractive for these sorts of things without jeopardising in any way the excellent world heritage site that they are?

WEDCO has made the jump and the step. And, arguably, WEDCO has perhaps not the length of time of historical relevance to this country but, certainly, having been the main historical port this far in the Atlantic for the British Empire in days gone by [it has] great historical relevance and importance to our

history and the history of maritime Atlantic as St. George's has to the history of the Commonwealth itself.

So St. George's city fathers need to begin to work their marbles a bit, and work with a partner. Get a partner to come in and help them see the vision that they can have and perhaps they can do more. Perhaps they can do more. Stop trying to ask others for the handouts and step up themselves. That is what I say, because WEDCO clearly has stepped up and are prepared to receive an economic opportunity that is not only going to benefit them but the country.

And I think that is the sort of thinking that we need to have in this country. And not be hesitant and reticent that we often see from people—it is not going to work, blasé this, blasé that. You know, that is what I like to see.

WEDCO is planning for the future. It is not just the past that is valuable to Bermuda, but the future is also valuable. Perhaps some people of St. George's must remember that.

Madam Deputy Speaker, I also heard quite a bit about marinas. I think it is a great idea of Bermuda, which is, frankly, not too different from what has been our history anyway, as a way stop between the North Atlantic and the Caribbean. That is almost like a no-brainer. That was Bermuda's history from its inception as a maritime jurisdiction when we were dominated by maritime activities, certainly from the late 1600's to the mid-1800's or even the late 19th century. We were the way stop. Bermuda made its money by facilitating trade between the Carolinas, New England down to the Caribbean—places like Barbados and other islands. Many Bermudians facilitated the growth of wealth. Interestingly enough, business houses like Gosling's would have made a lot of money from that trade, Madam Deputy Speaker.

But, anyway, I will not digress too much. My point is that this opportunity that has been developed by WEDCO is a no-brainer because it fits into what has been Bermuda's natural characteristic for centuries—as a maritime hub, as a way station between the wealthy north and the Caribbean opportunity of sun, sea, sand and whatever else you can find—a glass of rum or a glass of punch, whatever you want to get when you get down there. They have a lot of it.

So, this is a good idea because it is natural to Bermuda. It fits into our natural characteristic; it is, frankly, our history. We were born to be what this marina is seeking to bring about. We built our early wealth on this sort of activity—facilitating stops of trade between the Caribbean and the North. So, again, looking to the past, but to shape the future. That is the way I see it and I think it is a great idea.

An Honourable Member alluded to the fact that there are not that many marinas in the Caribbean. Well, either that Member is perhaps misinformed or has not been to the Caribbean very often or recently because you go to places like St. Lucia, Marigot Bay. Anybody who has been to St. Lucia, and if you have moved around that Island, there is a place called Marigot Bay that has got one of the most outstanding luxury yacht ports I have ever seen, with some massive yachts.

And St. Lucia is not that developed. But this is like a little oasis of economic opportunity in this bay. And you go in there, there are massive yachts, there are luxury stores on the sides, there are luxury villas and houses up on the hills, it all services and feeds that particular activity. And I found it amazing. And I did wonder at the time when I saw it, *this is something that Bermuda could do*. You know? We have the infrastructure and capability. This is something that St. George's could do because, frankly, that Marigot Bay area had a characteristic much like St. George's, with the sort of hilly view that comes down to the water. You know? It seemed to fit.

So, again, down in places like in the Grenadines, Mustique, Myroe, Cameron, Trinidad, Barbados, even down in parts of Grenada—huge yachting places. They have regattas every year because they draw and they feed off the yachting community that comes down there. And they do not just use it as a place, but they stay there, they buy goods and services, they plough money into the economy. You know, people make money just by carrying fish and provisions from yacht to yacht. That is the sort of potential business, in some ways, that can be generated by that sort of yachting development. The wealth creates the opportunity.

If we can draw . . . because, basically, Bermuda's area is going to be a more high-end activity, certainly by the examples that are made by the yacht race that just finished and the Marion to Bermuda yacht race, the Newport. They are examples of what can be generated through a perpetual, not just an occasional situation, but a permanent situation.

So we have sort of known this for awhile, but hey, WEDCO is picking up the ball. And I think it is wonderful. I do not doubt that the Honourable Minister and his team will do the appropriate due diligence on some of the issues raised by the Opposition, which have merit, in ensuring that preparation and any forward-planning, whether it is an environmental impact study that will be done to assess how the impact of this development will be to the area. Certainly, this will be good for the people of the West End who have an additional economic activity to feed into, added with what is already happening down in WEDCO as a result of the new pier—the economic renaissance of the Dockyard.

So, let's keep it going, as long as it is done in the appropriate way. And I do not doubt, because this Government has made an effort, whether it be the Hotel Concessions Act, whether it be other legislation to advance our international business areas, whether

it be to advance other areas of business, with telecommunications, we will do what is right to ensure that the development of this area of industry works for our people. And I look forward to seeing when this development comes to fruition down in the West End.

Thank you very much, Madam Deputy Speaker.

The Deputy Speaker: Thank you Minister Roban.

I just want to be clear that discussion on the West End Development Corporation Amendment, Act 2010, is not an opportunity to bash that beautiful living 17th century town.

[Inaudible interjections]

The Deputy Speaker: Does any other Honourable Member wish to speak to the motion that the second reading of this Bill be commenced?

If not, the Minister in charge may reply.

Minister Burgess, you have the floor.

Hon. Derrick V. Burgess, Sr.: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, let me first address the housing piece with my Shadow. I will certainly be prepared to share any information with you on that housing initiative out there in private because, as I have said in my statement, we have not met the folks yet officially, and I prefer to not make it public until such time. We will be meeting them on. So I will share anything you need to know on that.

Now, Madam Deputy Speaker, let me say you know once upon a time not so long ago Dockyard was dead. It was dead. Nobody put any money in Dockyard, would not invest in Dockyard. Now, people want to invest funds in Dockyard. And, yes, it has got to be done right. I have no problem there. No problem at all there. But we have people that are interested in investing funds in Dockyard, and I have heard some comments that are really not so kind. But I am not going to pay much attention to that.

But, let me say that there is no Government money going into this venture. Not one dime. And it is no favour of St. George's or Somerset or Devonshire. Some investors came to Bermuda, they had done their market research, they had done their surveys and they made an offer to want to invest in Bermuda.

And what we told them . . . they wanted to do the marina. I said okay, when it was brought to my attention, I said, "okay, well, I need some housing first. They get some houses, then we can talk." And they agreed. But as I said, that housing piece, I will talk to my Shadow afterwards, then we will do our public statement after I have met the residents, you know. That is what we will do.

Now, my colleague, the Honourable Minister Michael Scott, he toured [INAUDIBLE] he met them. And I do not think I need to go any further than that. And let me say that the housing project will all be done according to the regulations and the rules of Planning. You know, we cannot put up paper houses. That is against the Planning rules and regulations.

And when we talk about the benefits to Dockyard, there are many benefits. The benefits are jobs for Bermudians, first and foremost. It just enhances the whole area—an area that was dead 11 years ago. And now it is to be brought to life. And that is what we want.

We want people to go to Dockyard because we have some investors (Bermudian investors also) going to Dockyard—reluctantly, but they are going there. And I applaud them. Some of them are staying there. And it has not been easy going. But I think it is getting better for them. And that is what we want.

So all of this will help them because you have got those mega-yachts in there, you know. That has to create some revenue for the restaurants and all of the shops out there, and jobs for Bermudians, training for Bermudians to do those jobs. That is what we want, you know. And if any workers need to be brought in here, that is all subject to the Immigration regulations. And that is how that goes.

You know, I have to praise and thank the WEDCO management and board. You know, when the offer was made to them they went out and investigated. They checked this company out. They just did not sit on their hinds; they went out there and looked at them, looked at the product, everything. They did it. Minister Michael went. I was unable to go at that time. And so we have done our work on that up there.

And this Bill here, this Bill is only designed to give land to WEDCO, you know. That is all this Bill is to give the land to WEDCO—not to anybody else. There is not any land going out of the hands of Bermudians. Once that is done this will be a 60/40 venture—60 per cent Bermudian, 40 per cent to Clark International. And let me say this here, no money . . . WEDCO has the land; they bring the money to build the infrastructure. Good investment. And it brings everything else with it. So, again, there is no taxpayer's money that will go into this here.

I get the impression sometimes that people think that because we are going to reclaim 61.1 acres of land they think that we are going to fill in this seabed and make it land. Right, it is a marina. Just over an acre of it will be concrete. Yes, there will be some buildings, because we have got to put the marina and ports there.

[Inaudible interjections]

Hon. Derrick V. Burgess, Sr.: I mean, so—

[Inaudible interjections]

Hon. Derrick V. Burgess, Sr.: No, no, not you. I must say that your questions and your observations were very well and accepted. You know, I cannot say for most of the rest, right?

[Inaudible interjections]

Hon. Derrick V. Burgess, Sr.: Yeah. So we are not taking any land from Bermudians. Right?

Now, once that land is turned over to WEDCO and we lease it, it has to come back to this House in accordance section 22 of the WEDCO Act. It has got to come here. So the details of the lease will be brought to this House. That is the law. So don't get too . . . I can tell you that I think with our ferries, when those ships have to be taken out of the water they have to go overseas. And I think what I heard when I had a presentation, once this marina is complete, we will be able to do it here. Yeah, we will service those ships here.

So, Madam Deputy Speaker, I think I have answered just about—

[Inaudible interjections]

Hon. Derrick V. Burgess, Sr.: Oh, the environmental.

As I said in my statement, nothing will be done until that is finished and satisfied. Nothing will be done. That is on public record that I said that. And that is being done by Ms. Rattaray. What is her name? Eileen? Adeen? Rattaray. And it should be completed very shortly. I am just sorry we could not have it to give it to you at this time.

All the prep work . . . Clark International have done that. And, you know, they are not going to do it halfway because they are putting their money into it.

Look, Bermuda thrives on international investment—hotels, international business. We need international investments, and we should not be up here, or anywhere, making it uncomfortable that *oh, we don't want you*, like we have got choices. There are not many choices.

But we want to be straight up and we have done our due diligence. The board from WEDCO and the management have done that because we could not accept anything less. They know once they come to me and my PS, we expect nothing less. And so they did that—they know us by now.

With that, Madam Deputy Speaker, I move that the Bill be committed.

The Deputy Speaker: Yes, thank you Minister.

I ask the Honourable Member for Hamilton West, Mr. Wayne Furbert, to take the Chair of Committee.

House in Committee at 3:24 pm

[Hon. Wayne Furbert, Chairman]

COMMITTEE ON BILL

WEST END DEVELOPMENT CORPORATION AMENDMENT ACT 2010

The Chairman: Member in charge, can you move the—

Hon. Derrick V. Burgess, Sr.: Yes, Mr. Chairman.

Clause 1 provides for the Bill's short title.

Clause 2 adds the land shown in the map diagrams 5510/046/350. The top is the scheduled area described in the Third Schedule of the Act.

The Chairman: Would any other Honourable Members like to speak to the West End Development Corporation Amendment Act, 2010?

I recognise the Honourable Member Mrs. Patricia Gordon-Pamplin.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Chairman.

Mr. Chairman, the map outlining the area that is intended to be turned over to WEDCO is self-explanatory and, as such, we have no objection or further comment.

The Chairman: Minister.

Oh, sorry. Would any other Honourable Members like to . . . I thought that was pretty fast. I thought everybody else was in agreement with you. But, would any other Honourable Members like to speak to the West End Development Corporation Amendment Act, 2010?

No other Members would like to speak?

Hon. Derrick V. Burgess, Sr.: Thank you, Mr. Chairman.

Can I move the preamble and move that the Bill be reported to the House?

The Chairman: Those in favour of the motion say Aye. Those against say Nay.

AYES.

The Chairman: The Ayes have it loud and clear. The Bill is approved and will be reported to the House.

[Motion carried: The West End Development Corporation Amendment Act 2010 was considered by a Committee of the whole House, passed without amendment and will be reported to the House.]

House resumed at 3:26 pm

[Hon. Dame Jennifer Smith, Deputy Speaker, in the Chair]

REPORT ON BILL

WEST END DEVELOPMENT CORPORATION AMENDMENT ACT 2010

The Deputy Speaker: The Bill was reported as accepted without amendment.

Thank you.

The next item is The Insurance Companies (Special Fees) Act, 2010.

An Hon. Member: Carried over.

The Deputy Speaker: That is carried over.

The next item is the Second Reading of the Police and Criminal Evidence Amendment (No. 2) Act, 2010, under the name of the Minister of Energy, Telecommunications & E-Commerce, the Spokesperson for Justice.

The Honourable and Learned Michael Scott, the Representative for Sandys North, constituency 36, is the Minister in charge.

SECOND READING

POLICE AND CRIMINAL EVIDENCE AMENDMENT (NO. 2) ACT, 2010

Hon. Michael J. Scott: Thank you, Madam Acting Speaker.

I move that the Bill entitled the Police and Criminal Evidence Amendment (No. 2) Act, 2010, be now read a second time and committed.

[Mr. John Barritt, Acting Speaker, in the Chair]

Hon. Michael J. Scott: Mr. Acting Speaker, the Bill entitled the Police and Criminal Evidence Amendment (No. 2) Act, 2010, makes provision to amend the principal Act, namely the Police and Criminal Evidence Act of 2006—which is commonly referred to as PACE—for the purposes of enhancing and clarifying certain provisions of PACE.

Mr. Acting Speaker, as you are aware, the first phase of PACE was enacted on the 14th of August 2007—and I have not gone that far, to the Honourable and Learned Member Mr. Moniz who I see. I have just read three lines. I was indicating that the purposes of today's amendments are both for the enhancing and clarifying certain provisions of PACE.

Mr. Acting Speaker, the first phase of PACE was enacted on the 14th of August 2007. It is the principal legislation providing for substantial reforms to the way in which the Bermuda Police Service carries out its law enforcement duties, particularly in the areas of arrest, detention and the interviewing of suspects. Since that date, Mr. Acting Speaker, 68 sections of the principal Act have been enacted in Bermuda over the last three years.

Mr. Acting Speaker, you would also be aware that amendments were made to the PACE earlier this year by way of the Police and Criminal Evidence Amendment Act, 2010, and that such amendments enacted at that time were for the purposes of enhancing and clarifying certain other provisions of PACE.

Mr. Acting Speaker, not unlike the amendments made earlier this year, the Bill before us is the result of considered and deliberated recommendations made by the PACE Committee.

Mr. Acting Speaker, you will also be aware and Members of the House will be aware that the PACE Committee was established by Madam Attorney General, the Honourable Senator Kim N. Wilson, JP, and authorised by the Cabinet for the purposes of reviewing proposals and making recommendations for amendments to PACE. Given the central task of the PACE Committee, and given that its central task is necessarily made up of representatives from the Judiciary, the Bermuda Police Service, the Department of Public Prosecutions, the Legal Aid Office and, importantly, Members of the Criminal Defence Bar. Mr. Acting Speaker, their mandate has been to review the remaining 35 sections of PACE and they have recommended further changes to PACE which are reflected in these amendments today.

Mr. Acting Speaker, the amendments contained in the Bill, in addition to further clarifying PACE, will also enhance its operation and function.

May I now indicate the changes augmenting the principal Act?

Firstly, Mr. Acting Speaker, the Bill expands the powers of the Bermuda Police in relation to bail by lowering the age that a person can be refused bail from 18 to 16. This change is necessary to bring the age referred to in this provision into sync with other provisions in the principal Act. The impact of this change will allow the Bermuda Police to deny bail to a suspected criminal age 16 years or older. Given the current climate of criminal offending and gang related offences involving teenage persons, whilst unfortunate, it is certainly also appropriate that such a change is enacted.

Secondly, Mr. Acting Speaker, the Bill strengthens the powers of the Bermuda Police in relation to the detention of arrested persons by increasing the length of time a suspect can be held in police custody before [being] charged. And that is a change from the current period of 24 hours to 42 hours.

Thirdly, the Bill goes on to enhance the powers of the Bermuda Police in relation to the continued detention of persons arrested without charge by extending the period of continued detention. The Bill makes a slight amendment for the purposes of clarity

so that a period of continued detention may be authorised for persons arrested for indictable offences instead of arrestable offences. The Bill then goes on to expand a chief inspector's authorised period of continued detention for such persons from 36 hours (currently provided for in PACE) to 54 hours.

Mr. Acting Speaker, the Bill adds a new provision which grants a police officer ranked Superintendent the power to authorise a further period of detention up to 66 hours, whereby an arrested person's total time in custody must not exceed 66 hours. In all cases relating to the Bermuda Police Service's authorised continued period of detention, the requisite police officer must have reasonable grounds for believing that (1) such detention is necessary to secure or preserve evidence; (2) that the offence for which the person has been arrested is an indictable offence; and (3) that the investigation is being conducted diligently and expeditiously. So that formula will continue to be thematic and has been thematic throughout the PACE amendments that we have been discussing in 2010 and in other periods and amendments of PACE.

Mr. Acting Speaker, due to the limited resources within the Bermuda Police construct, the changes today have been deemed necessary in order to enable the Bermuda Police to conduct expanded investigations such as forensic testing and the securing of expert opinions within a realistic period during which the suspect is detained.

It is clearly unfavourable to have instances where forensic tests are finally completed and the suggestion of guilt there, but the accused person(s) have been released while awaiting the conclusion of such tests. That is entirely unsatisfactory. It is easy to imagine the challenge the Bermuda Police Service will then face having to relocate and re-arrest such suspects. And so, Mr. Acting Speaker, a fourth amendment is made in relation to augmenting the powers of the Magistrate's Courts in relation to the further detention of arrested persons.

Mr. Acting Speaker, you will be aware that under PACE any additional period of detention of an arrested person can only go authorised by a Magistrate's Court. The Bill first clarifies PACE by providing that such authorisation is only justified for serious indictable offences instead of serious arrestable offences. The Bill then goes on to strengthen this provision by increasing the total period of detention from 36 hours to 66 hours. This means that the Magistrate's Court may authorise a further period of detention in such cases, but that an arrested person's total time in custody must not exceed 66 hours.

Mr. Acting Speaker, Members of the House will be aware that under PACE any further period of detention must be obtained by warrant of further extension by the Magistrate's Court, but only where there are reasonable grounds for believing that further detention is justified.

Mr. Acting Speaker, in light of the overall increased periods of detention that I have already described and expounded upon, the Bill amends PACE by limiting any further detention under a warrant of extension by a Magistrate's Court from 36 hours (provided under PACE) to a reduced 30 hours.

Mr. Acting Speaker, a fifth change contained in the Bill—also as an enhancement to PACE—is a provision permitting a police officer ranked Superintendent or above to authorise the extended detention of arrested persons in cases where it is required, but not possible, for the court to hear an application to extend. The Bill provides that a Superintendent may order further periods of detention in 12-hour intervals, expiring after a sum total period of 96 hours from arrest and arrival at the police station, in cases where an application cannot be made to the court, such as on weekends or on public holidays. Under the Bill such authorisation must be subject to 12-hour reviews, as I have indicated, and the total period of detention must not exceed 96 hours. Now, the requirement not to exceed a total period of detention of 96 hours is stipulated in PACE and remains unchanged by the Bill. It is only the review times and the required authorisation for such reviews that has been amended.

Mr. Acting Speaker, the other changes contained in the Bill improve the function of PACE by bringing it in line with the practice in other jurisdictions. For example, the Bill amends the principal Act with respect to the review of an arrested person who has been detained without charge. It requires that the first review, conducted six hours after arrest and arrival at the police station, is to be conducted by a Custody Sergeant, not an Inspector. This change is in pursuance of the United Kingdom Home Office PACE Review Report of 2008, which recommends that conduct of the first detention review period should be reduced from a police officer ranked Inspector to that of the Custody Sergeant.

Mr. Acting Speaker, the Bill goes on to provide that, unlike the first review, the second review must be carried out by an officer ranked Inspector. The Bill then increases the second review period from 9 hours (contained in PACE) to 12 hours. This means that where an arrested person has been detained without charge for 12 hours, a second review of that detention must be carried out and must be conducted by an Inspector. The Bill then increases all other subsequent review periods from 9-hour intervals to 12-hour intervals.

Mr. Acting Speaker, a final change to enlarge and enhance PACE pertains to instances where a Superintendent may authorise a delay in complying with an arrested person's request to have someone informed of their arrest. The Bill widens the cases in which such authorisation may be given from those cases involving serious arrestable offences to those

involving indictable offences (is the first element). This change was deemed necessary to assist the police in searching premises before a detainee can alert a family member or co-defendants. The Bill goes on to provide that this authorisation must be reviewed every 12 hours in order to ensure that the detention is still relevant, proportionate, and appropriate.

Finally, Mr. Acting Speaker, the Bill endeavours to make the necessary changes to PACE in order to improve clarity and operability for those bodies governed by its provisions. It is with this aim in mind that certain provisions have been repealed; in particular two provisions which relate to the option for the Bermuda Police to test for the presence of controlled drugs after charge for trigger offences have been repealed. These provisions pertain to keeping of statistical data, however, unlike the United Kingdom, Bermuda does not have to keep such data under the equivalent provisions of PACE. Therefore, such provisions will be repealed by this Bill as they are nebulous and involve unnecessary powers of bureaucracy and are not essential for the prosecution.

Mr. Acting Speaker, I am fully confident and satisfied that the amendments contained in the Bill will improve the fundamental operation and functioning of the PACE provisions and will help to ensure that the powers contained therein continue to be effective and responsive to the changing conditions of criminal behaviour and policing in our Island.

With that, Mr. Acting Speaker, I commend the amendments to the House.

The Acting Speaker: The House is debating the Police and Criminal Evidence Amendment (No. 2) Act, 2010. We have heard from the Minister responsible in the House, the Honourable and Learned Mr. Michael Scott.

Does any other Honourable Member wish to speak to the Bill?

The Chair recognises the Honourable and Learned Member Mr. Trevor Moniz from Smith's West.

Mr. Moniz, you have the floor.

Hon. Trevor G. Moniz: Thank you, Mr. Acting Speaker.

As I have stated publicly on this matter, and will state today for the record, we are in support of these measures which will strengthen the ability of the police to enforce public order and increase public safety.

Members of the public will be aware, as we are in this House, that we have been having . . . as the Minister said, these Police and Criminal Evidence Act matters have been coming before us, and the first one was passed back on the 14th of August 2007. And since then we have been getting them in a number of traunches, and I think effectively there were meant to be four traunches of legislation. And I think the whole of it can only be put in force once we have the new Hamilton Police Station up and running, which is, I believe, outfitted to the modern standards for the type of interviews with video and audio recording, etcetera.

But we will only really reach the full stand of PACE once that building is finally finished and opened, which I think now is probably not until 2011. I do not think we are nearly there yet. I have not seen too much activity lately over at that building.

Now, this is getting somewhat complicated. I was trying to follow this through myself. I am no longer an expert on criminal defence law, having stopped doing that sort of practice long ago. But looking through here . . . and one of the comments I make when I go through here is that it could be simplified in terms of the number of hours that people are able to be held under different circumstances.

It talks about detention, it talks about detentions without charge, it talks about detention without a person being able to consult their barrister and attorney. But there seems to be cropping up, and somehow crops up, all sorts of strange numbers of hours. I mean, in my simple world I would have periods which would be 12, 24; you could have 36, 48, you go to 60, 72. They are all divisible by 12-hour segments.

I know there might be some differential from that as I believe in the Bermuda Police Service they operate generally on an 8-hour duty cycle. But here I see periods cropping up such as clause 10 talks about holding someone for a further 30 hours. Well, I am wondering why 30 hours? I thought it was going to be in increments divisible by 12. And 30, last I heard, was not divisible by 12. So you end up with areas like 54 hours, 66 hours. It would be simpler to the average person to deal with one day, two days. You could have 12-hour intervals in between, which would simplify it. But I would have thought 24, 48, 72 would be much easier intervals to explain to the average member of the public than a 30-hour interval, for example.

And those are things which I think, you know, when you are doing legislation this complex you have to remember not only do the police have to understand it, and obviously the members of the Bar have to understand it, it is also being explained to members of the public—the civilian population and their families who are trying to obtain someone, to, you know, get someone back who has been in custody.

Now, as I said in my public pronouncements, this is obviously of great concern to the public. I know that the Criminal Defence Bar will be very concerned in the sense that there is no doubt that under this that civil liberties are being cut back because someone's ability to detain a person is being increased. And there is always a concern that we must keep that under very careful monitoring to see that there is no abuse, obviously, of the rules that exist. And from time to time, you know, is it alleged that there are abuses.

I know, traditionally, when I was acting, there were those periods, such as weekends, when, if someone were put in detention on a weekend, it was difficult. You had to go to a Magistrate to obtain bail and sometimes you had difficulty, firstly obtaining a lawyer, and then the lawyer had difficulty obtaining the Magistrate. So you had these sort of challenges that went on. I note here that they are trying to allow for the fact that there are periods when the Magistrates are not sitting so that you do not have to call them from their private time in order to have them authorise someone to be either released or to be kept in detention. In some situations here you have a situation where it is an officer in the police force, Superintendent, et cetera, who is holding someone who is authorising them to be detained for a further period.

Now, you know, most of us can see the sense that if you arrest someone and then you want to go and you want to search their house that you should have the ability to do that without them having the ability to warn somebody to destroy evidence, et cetera. So the police need the ability to do that. We recognise that. But, obviously, we are going to have to monitor it very carefully when the time arrives.

Now, you know, to broaden the background of this debate—and I am sure that I said this before—it is not just a question of the framework of the laws you have, but it is the people who enforce those laws, and it is also the extent to which the public is going to comply with them.

One of the technical things I would like to mention, just to make it clear, because I know it was not clear in my own mind, before I get to that, is the meaning of . . . it mentions in here it talks about . . . and I believe it is with respect to clause 20 of the Bill which amends section 60 of the principal Act, saying criteria for offences are widened from serious arrestable offences to indictable in relation to withholding a detainee's right to have someone informed of their arrest.

And I am reading here from the explanatory memorandum, Mr. Acting Speaker, with your permission, and it says, "This is essentially to assist the police to search the premises of a detainee before the detainee can alert other persons like family members and co-defendants about the search."

And I have asked the Learned Attorney General, who is present in the Speaker's Gallery today, the exact meaning and definition for "serious arrestable defence," and I was not sure whether it occurred in the Criminal Code or whether it was in the substantive legislation. And she has shown me it is in the substantive Police and Criminal Evidence Act of 2006. And if I might just go through that just for the benefit of this House and of the public.

In section 3 it says, "Meaning of serious arrestable offence." And there is a list of a number of types of offences. "[(2)] The following arrestable offences are always serious."

An offence specified in Part 1 of the Schedule to this Act (a variety of offences) but it goes down and it is a sort of shopping list in different schedules, which is a bit complicated. Some are with reference to drug trafficking, some are with respect to money laundering and financial measures. Sometimes you are introducing here different definitions under different acts. The indictable offences, I presume, are defined under the Indictable Offences Act and under the Criminal Code and you have got serious arrestable offences under PACE.

And I think we have to be careful that this area of the law becomes increasingly complex such that fewer and fewer people are able to understand it. And that is not good in terms of having law. Law should be as simple as it can possibly be so that it can be understood by the people of the community. People are not going to be able to understand and obey law unless it is clear.

Now, going back again to the point I was making about the framework. You create this, and we are forced to do it because of the conditions of public safety, but going back to creative framework of laws which becomes increasingly complex, but it all hangs upon the ability of individuals to do their jobs under that legislation. For example, you know the police or the prison services are not able to detain somebody in custody unless they are physically able to do that. And only this week we have seen a situation where a young man, who was being taken to the Magistrate's Court to answer charges, escaped from lawful police custody with some ease. No, from prison officer custody. Correct. And I happened to be nearby at the time and witnessed that—

[Inaudible interjections]

Hon. Trevor G. Moniz: In my younger days I would have. If I had had my running shoes on I think I could have been a little than perhaps the prison officers were. They did get up to the corner, but that is about as far as they got.

And that is not the first time that I have seen someone escape from lawful custody. You know? The other day . . . that is a favourite spot there, because prisoners are always being taken to Magistrate's Court from the police station and from the prison officer's van which comes to the Supreme Court. And we park our cars here in Parliament, so you are constantly walking down and up when prisoners are being taken back and forth.

Not so long ago I . . . you know, you have to look at with some amusement. There was a very average sized lady in plain clothes, what looked to me like plain clothes not a uniform, taking a very large gentleman up the street. And, of course, he started

going somewhat faster than her and ambling away and then she started asking for assistance and I guess she was a police officer. But it was not obvious to anyone around that she was. She was not in any obvious police uniform. And this rather large gentleman started ambling up the street at no great speed and she started calling for help. And who was standing there? The two people standing there were myself and the Minister of Home Affairs, Col. Burch. And I must say—

[Inaudible interjections]

Hon. Trevor G. Moniz: —that we should have had a tag team and we could have tackled this guy. But either one of us on our own, I do not think, would have made it. And I must say on that occasion—

[Inaudible interjections]

Hon. Trevor G. Moniz: I must say on that occasion that by the time the guy had crossed the street, there were three police cars coming from different directions and I am sure they corralled the gentleman quite quickly. But it always makes you think, *What was in the head of the police officer that authorised that woman to go up the street with that huge gentleman?* It made no sense whatsoever.

I mean he could have run up the street with her over his shoulder. I mean that is how big the guy was. So, you know, it made no sense to do that.

And with the case that occurred this week, you know, there were two officers and they were not holding the prisoner, and the prisoner was handcuffed in front—he made a break for it—had no shackles on his legs, and he was young and he was fast, so he was off.

So, when you talk about detaining individuals you have to able to keep them in detention—it is no good if the windows are open, the doors are open, the handcuffs do not work, or the people are all asleep! None of it is going to work if the individuals involved cannot do their job under this increasingly complex framework that we are creating here for public safety.

So, while I praise the Government and laud them for the actions they are taking, unless this is joined together with enforcement of individual responsibility and accountability under the system, none of it is going to work effectively. And that is where we have to ensure that the prison service, the police service, the courts . . . You know, only this week again in the same situation. I paused to speak with one of the judicial officers saying that there is no sufficient security in the courts. Well, we do not have any sufficient security . . . you know, we have less—less security—in the Supreme Court (which has very serious cases) than we have in the Magistrate's Court. And the Magistrate's Court . . . the Magistrates are constantly complaining that they do not have sufficient security down there, but they admit they have more security than the Supreme Court.

So all the way along the system you know, someone needs to be looking at the big picture. And I think here, the Minister of Justice, who is in the Speaker's Gallery today, needs to look at how all these bits and pieces join up and make sure that it all makes sense. When you are operating at a high level it is easy to create these laws, but do they work on the ground? Are they making law enforcement more effective on the ground? Are they increasing public safety for the community of Bermuda? That is the question that we have to answer at the end of the day.

Those are my comments, Mr. Acting Speaker. Thank you.

The Acting Speaker: The Honourable and Learned Member, Mr. Trevor Moniz.

We are in the House debating the Police and Criminal Evidence Amendment (No. 2) Act, 2010. Does any other Honourable Member wish to speak to the matter?

The Chair recognises the Honourable and Learned Member, Mr. S. Crockwell, from Pembroke West.

Mr. Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, we also support this legislation which is a further implementation of PACE, which we have known for some time would be coming before the House to improve our criminal justice system.

There is no question that we have seen a significant revamp of the criminal justice system in this parliamentary session. Quite a few necessary pieces of legislation have come before the House as a result of the unfortunate climate that we find ourselves in in Bermuda. Although this has been on the agenda for some time, as the Honourable Minister stated—since 2007 when the first instalment of amendments came to the House—we will see, as you know Mr. Acting Speaker, another piece of legislation later on today which goes some way to improve the criminal justice system so that we can find a way to somehow or the other retain law and order in the community.

I concur with the Honourable and Learned Member that just took his seat. I do not practice at the Criminal Bar, Mr. Acting Speaker, however, I have been told by those who did back in the day that once upon a time you could practice both criminal and civil law because the laws were pretty straightforward. But now, in order to practice at the Criminal Bar effectively, it has really become a specialised area. And you really have to probably exclusively practice Crimi-

nal Law in order to do justice to those who come before the court.

And I certainly agree with the Honourable and Learned Member that the laws seem to be becoming more complicated. It would be great if we can have these laws codified it some way. But, certainly, I am comforted—and the BDA is comforted—by the fact that these particular amendments are a result of consultation from the PACE committee, certainly consultation with the Bermuda Police Service. And if they deem these particular amendments to be desirous and efficacious to do their job, then we certainly support them and hope that they will produce the desired effect.

We are concerned about any provision—as we expressed during the Firearm Amendment Act we express again now any provision—that extends the incarceration or the detention of someone without charge. [That] certainly raises some concerns. The presumption of innocence should still remain paramount within our system and certainly we just implore that the correct balancing act will be performed by the Bermuda Police Service.

I was concerned by hearing comments of a particular member of the Criminal Bar when she stated that, based on her experience, there are individuals—police officers—that detain individuals without the requisite information and they just do this. And so we have to ensure that individuals are not detained unnecessarily. As we all know, that practice . . . there could be consequences if individuals are incarcerated without the necessary evidence. There are individuals who may be suspects, but not necessarily guilty of a particular offence. And so we have to ensure that we do not detain individuals who are not caught up in criminal activity unnecessarily.

We support the amendments, Mr. Acting Speaker. And we concur with the Honourable and Learned Member who just took his seat that we hope that these amendments will go some way to getting security back to our streets.

Thank you, Mr. Acting Speaker.

The Acting Speaker: We are debating in the House the second reading of the Police and Criminal Evidence Amendment (No.2) Act, 2010. Does any other Honourable Member wish to speak to the Bill?

The Chair recognises the Honourable Mr. Walter Roban, Representative for Pembroke East.

The Chair recognises Mr. Roban—you have the floor.

Hon. Walter H. Roban: Thank you very much, Mr. Acting Speaker.

Certainly on behalf of the Ministry of Labour, Home Affairs and Housing, and the Bermuda Police Service, we are pleased with these amendments coming forth understanding, as I am sure everyone understands, [that] PACE has become an indelible piece of the criminal justice framework.

It has transformed policing and certainly criminal justice, as has other legislation which has already been referenced during this debate. Certainly, this Government will continue to work to bring those measures which we feel will enhance the criminal justice framework to ensure that we can improve the challenging situation as it relates to law and order in the country. We believe that much has been done to arrest some of the challenges we are confronted with, but more vigilance . . . and, certainly, if measures need to be brought to this House to do so, we shall do it.

Certainly, I note the concerns raised by Honourable Members as to ensuring their concerns about the delicate balance that is used, as this provision of PACE does expand certain powers of detention and other measures that will seemingly assist the police in their duties, as the Honourable Minister, Michael Scott, outlined in his brief.

Well, as I said, I think that Members can be comforted that certainly PACE has a history beyond these shores, and it has shown that even in the UK the transition to the PACE framework being an indelible part of law and order was successful. It is always a working situation, but it has improved the effectiveness of policing, and, certainly, if arguably, improved the situation as it relates to the treatment of offenders and how they are handled in the ultimate path to finding justice.

I do believe that as we continue on with our phasing this PACE mechanism in place and ensuring that we have the appropriate infrastructure, as well as the legislative framework, justice will be done to all aspects of law and order in this country.

The people of Bermuda are asking for solutions, and the framework that PACE and these amendments are bringing will bring that environment which we feel will steadily help to improve the policing environment as well as the environment in conducting proper and appropriate investigations to find criminals and to get good results in the court and to ensure that, overall, people's situation in this country and the feeling of wellbeing of their safety is thoroughly enhanced.

So, certainly, the Police Service, as has already been mentioned, has had a role in giving advice around these issues and we are supportive of what is being done and will continue to support the Attorney General in her efforts, and her Chambers in bringing legislation to this House that will improve the system of justice in this country.

Thank you very much.

The Acting Speaker: We continue to debate the Second Reading of the Bill, The Police and Criminal Evidence Amendment (No. 2) Act, 2010. Does any other Honourable Member wish to speak and be heard on the Bill—its principles and general merits?

There being no further speakers, the Chair will call upon the mover of the Bill, the spokesman for justice in the House, the Honourable and Learned Member, Mr. Michael Scott.

Mr. Scott, do you wish to reply?

Hon. Michael J. Scott: Thank you, Mr. Acting Speaker.

In responding, may I first thank the Honourable Member, Mr. Trevor Moniz, who speaks for justice matters for the Opposition, and the Honourable and Learned Member, Mr. Shawn Crockwell, who speaks for justice matters for the BDA, for embracing in a supportive way these enhancements and clarifications to PACE to tropicalise it, really, from the situation here away from the legislation from which we are taking it from in the United Kingdom. I appreciate the supportive comments that it is all driven towards being responsive to our particular circumstances here in Bermuda.

What is quite clear is that what we are seeing is the circumstances of not having forensic facilities on Island, the behaviour of criminals that both the police and the DPP have apprehended, their nuances. So, all of the amendments are a continuous review exercise. We have consulted with the Bench as well, and, particularly importantly, consulted with the practitioners of the defence bar to produce a balance between the responsiveness of our PACE—our tropicalised PACE—and civil liberties being observed.

And I think we are doing a very fine job at working through these 30 or 68 stages of PACE. And I am happy to recognise now the PACE consultant here in court accompanying the Madam Attorney General. We thank you, sir, for your continued good work—the drafter Mr. Appier and my Acting Permanent Secretary Mr. Frances—for doing the work of being responsive in making these enhancements and clarifications.

The Honourable and Learned Member, Mr. Moniz, asked about the periods. And in part, the Honourable and Learned Member characterised them as complicated and not subscribing to the 12, and 36, and 24. I think the periods for us to pay attention to (as I am advised by Madam Attorney [Genera]) are the review periods—the first period is 6 hours, and there are clear review periods that go in traunches of 12. I think that is the important period for the prisoner, or the detainee, to be concerned with. And it is clear for the detainee that his or her case will be susceptible to these clear 6-plus, then 12-hour review periods.

And these other periods of 30 hours and 66 hours and 54 hours, I think I heard the Honourable Member mention, they are really largely having to be responsive to the fact that, of those three items, time to investigate to have forensic information sent overseas, we are trying to strike a difficult and uneasy balance. So it is, largely, these numbers are administrative, based on the fact that we are out here in the Atlantic. We want to ensure that our investigation is not compromised by release of detainees.

It is not easy to strike neat balances of 36 hours. Largely, it is all driven by our circumstances on the ground and complying with those three elements—due diligence, diligent pursuit of our investigation, obtaining the forensic investigation process, and there is a third one that we are all familiar with. And so I think that is the rationale for these somewhat different periods.

But the clip . . . I think the fairness, though, is in the 6-hour and the 12-hour review periods which will give a person, whose liberty is at risk, a clear comfort that their case is being monitored.

Those were the questions I heard that I wanted to respond to. And, with that, sir, I move that the Bill be committed.

The Acting Speaker: Will the Honourable Member from Hamilton West, Mr. W. Furbert, please take the Chair of Committee?

House in Committee at 4:09 pm

[Hon. Wayne Furbert, Chairman]

COMMITTEE ON BILL

POLICE AND CRIMINAL EVIDENCE AMENDMENT (NO. 2) ACT

The Chairman: Minister.

Hon. Michael J. Scott: Mr. Chairman, Thank you.

Mr. Chairman, the amendments comprise 23 clauses, really short, compact ones. I move all 23 and will briefly take the House through them.

The Chairman: Any objection to him moving all the clauses?

No objections?

Minister?

Hon. Michael J. Scott: Clause 1 is the citation and provides for the name of the Act.

Clause 2 amends section 35 of PACE 2006, herein after referred to as the principal Act, by deleting the word “written” to put beyond doubt that the record refers to any type of record.

Clause 3 amends section 39 of the principal Act as a housekeeping exercise to provide for clarity.

Clause 4 amends section 40 of the principal Act to change the ages to make them synchronise with ages in other provisions of the principal Act and to put beyond doubt that the record refers to any kind or any type of record.

Clause 5 amends section 41 of the principal Act to include additional ranks above Superintendent

to make room for the unavailability of a Superintendent.

Clause 6 amends section 42 of the principal Act in pursuance of the United Kingdom Home Office PACE Review Report of 2008. This Report, Mr. Chairman, recommends that the first detention review should be reduced from Inspector to Custody Sergeant; subsequent reviews have been increased from 9 hours to 12 hours.

Clause 7 seeks to amend section 44 of the principal Act.

Clause 8 seeks to amend section 45 of the principal Act.

Clause 9 inserts a new section 45A into the principal Act such that the cumulative affect of clauses 7, 8 and 9 is that due to the style and limited resources of the Bermuda Police Services and the various strangulations in the investigation of crimes (i.e., forensic tests, expert opinions), it is agreed that the existing 24-hour and a further 36-hour time limits to detain someone without charge would present significant time constraints and challenges on the Service. And, therefore, the Inspector's review limit has been increased from 24 to 42 hours. The next review has been raised to between 42 and 54 hours and is to be made by a Chief Inspector, but only for serious offences, i.e., indictable offences. A third tier has been introduced at the Superintendent level from 54 hours to 66 hours.

Clause 10 amends section 46 of the principal Act so that, among other things, a Magistrate should be able to order another 30 hours of detention up to a maximum of 96 hours total time spent in custody.

Clause 11 amends section 47 of the principal Act. Section 47 deals with the taking of person before a court for extended detention. It is, however, and has, however, been recognised that the opening of the Magistrate's court might not always be possible on weekends or on public holidays. So the amendment allows a Superintendent to authorise the further detention at 12 hourly reviews, upwards of a maximum of 96 hours, if no court can be open to hear such an application.

Clause 12 amends section 48 of the principal Act as a housekeeping exercise.

Clause 13 amends section 49 of the principal Act to delete subsections (2), (3), (4) and (6) because of the new power of Superintendents provided for in clause 12—when a court, for example, is not sitting.

Clause 14 amends section 51(2) of the principal Act as a housekeeping exercise.

Clause 15 amends section 52 of the principal Act to delete the restrictive wording of "written" (as has been taking place throughout the amendments) so as to enable the term "record" to now incorporate any kind or any type of record.

Clause 16 amends section 55 of the principal Act. The purpose of this amendment is to extend the power to search detained persons to civilians. So we have extended that search to civilians employed by the Bermuda Police Service. Consideration may be given in the future to the employment of civilian jailers as well to assist police officers and to free up the deployment of our officers to the fighting of crime.

Clause 17 amends section 57 of the principal Act. The substitution of subsection (1)(b) is to enable an officer of at least the rank of Inspector to authorise an intimate search of a detained person who may have acquired controlled drugs while in custody. The amendment in subsection (8)(d) is to broaden the category of places such intimate searches can be carried out to include any type of medical facility.

Clause 18 amends section 57A of the principal Act to delete the restrictive word "written" (again) to enable the term "record" to now include any type of record.

Clause 19 amends section 58 of the principal Act as a housekeeping exercise.

Clause 20 amends section 60 of the principal Act. The criteria for offences are widened here from serious arrestable offences to indictable, in relation to withholding a detainee's right to have someone informed of their arrest. This is essentially to assist the police to search the premises of a detainee before the detainee can alert other persons like family members or co-defendants about the search.

Clause 21 amends section 61 of the principal Act to, among other things, insert a new subsection (14) to permit a Superintendent to review the authorisation under section 61(6)(b) to delay requests by a person arrested and held in custody or a police station to consult a barrister or an attorney under subsection (1) of that section.

Clause 22 repeals sections 68 and 69 of the principal Act. These two sections dealt with the option for a drug test after a charge for trigger offences. These provisions are considered unnecessary because, unlike the United Kingdom, Bermuda does not have to keep the statistical data the UK has to keep under the equivalent provisions of the PACE UK.

Finally, clause 23 amends section 101(6)(a) of the principal Act as a housekeeping exercise.

Thank you, Mr. Chairman.

The Chairman: Would any other Members like to speak to the Police and Criminal Evidence Amendment (No. 2) Act, 2010?

The Chair recognises the Honourable Trevor Moniz, Smith's West, constituency 9.

Mr. Moniz, you have the floor.

Hon. Trevor G. Moniz: Thank you, Mr. Chairman, just briefly.

I mean, we are gradually here making big changes in the Law and people should be aware of them. And we are talking here about one of the things

that attracted my attention, and I think it will attract the attention of other people. [That] is the situation in clause 17 where you have a new section which enables an officer of at least the rank of Inspector to authorise an intimate search of a detained person who may have acquired controlled drugs while in custody. And that amendment is to broaden the category of places where such intimate searches may be conducted to include any type of medical facility.

We have seen in clause 16 before . . . I think these are changes which are worthy of note, so I speak so as to underline them (you know, the Minister has drawn attention to them) talking about the . . . clause 16 talks about amending section 55 of the principal Act. The purpose of the amendment is to extend the power to search detained persons to civilians employed by the Bermuda Police Service. And that is because consideration may be given in the future to the employment by the Police Service of civilian jailers to assist the police officers and that then there would be the ability to give those civilian jailers the power of search over detained persons.

So, just to say that there is a substantial shift in the way our society operates, which to a large extent has been forced upon us by the demands of public safety created by the tremendous crime wave that we are seeing with gang warfare and gun crimes. But we must be aware of that as we move forward and monitor it carefully.

Thank you, Mr. Chairman.

The Chairman: [Thank you] Mr. Moniz.

Would any other Member like to speak to the Bill, the Police and Criminal Evidence Amendment (No. 2) Act, 2010?

Minister, would you like to respond?

Hon. Michael J. Scott: I thank the Honourable and Learned Member, Mr. Moniz, for placing in high relief these changes, particularly as they relate to the matters that he referred to, the places for intimate searches, better deployment of civilian assistance so that the men and women in uniform can continue to deal with our crime in the country.

I know that there are several murder investigations ongoing in the country. And I do not know how many police officers are deployed to a murder investigation in this country. There must be a best practice. But you can just begin to imagine how important it is to have suitable and best practice deployment of the right number of police officers, men and women, involved in the 16 murder charge investigations we have ongoing now. And so these are parts of the administrative decisions we are having to make, that the PACE Committee too has to be making with the assistance of Mr. Crampton, who I have recognised for his sterling work that he has been providing for these many months assisting us as the primary consultant. These are the kinds of realities that we have to face, but I thank the Honourable and Learned Member, Mr. Moniz, for those observations.

Mr. Chairman, I move the Preamble and the Bill be reported to the House without amendment.

The Chairman: It has been properly moved—the Preamble.

Those in favour of the motion say Aye. Those against say Nay.

AYES.

The Chairman: The Ayes have it.

Those in favour of reporting the Bill to the House say Aye. Those against say Nay.

AYES.

The Chairman: Again, I think the Ayes have it. It is reported to the House.

[Motion carried: The Police and Criminal Evidence Amendment (No. 2) Act, 2010, was considered by a Committee of the whole House and passed without amendment.]

House resumed at 4:22 pm

[Mr. John Barritt, in the Chair]

REPORT ON BILL

POLICE AND CRIMINAL EVIDENCE AMENDMENT (NO. 2) ACT, 2010

The Acting Speaker: The Bill, Police and Criminal Evidence Amendment (No. 2) Act, 2010, has been reported to the House as approved without amendment.

Are there any objections?

No?

So approved.

[Gavel]

The Acting Speaker: The next order on the Order Paper for today is the Second Reading of the Justice Protection Act, 2010, in the name of the Minister of Energy, Telecommunications & E-Commerce who is the spokesperson for justice in the House, the Honourable and Learned Member, Mr. Michael Scott.

The Chair recognises the Honourable and Learned Member, Mr. Scott.

SECOND READING

JUSTICE PROTECTION ACT 2010

Hon. Michael J. Scott: Thank you, Mr. Acting Speaker.

I move that the Bill entitled, The Justice Protection Act, 2010, be read a second time and committed.

The Acting Speaker: Any objections?

[Gavel]

The Acting Speaker: No?

You may proceed, Mr. Scott.

Hon. Michael J. Scott: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, reliable witnesses are crucial to the successful criminal prosecution of offenders. Such offenders or their associates have increasingly attempted to deter witnesses from testifying by using intimidation and the threat of violence against prospective witnesses and their family members.

Fortunately, Bermuda has not reached the level of witness intimidation currently experienced in some overseas jurisdictions. However, the Government has been proactive and has adopted a comprehensive solution strategically crafted to offer protection to witnesses, thereby enhancing the prospects of a successful prosecution and simultaneously public confidence in the criminal justice system.

Sir, Bermuda is not alone in facing this challenge. The Overseas Territories, in conjunction with the Foreign and Commonwealth Office under the direction of the Right Honourable Baron of Scotland, former Attorney General of England and Wales, have initiated discussions on the establishment of a witness protection programme in the Caribbean region which the United Kingdom has agreed to support.

The proposal called for the Attorneys General of Bermuda, Anguilla, the British Virgin Islands, the Cayman Islands, Montserrat, and the Turks and Caicos Islands to enter into a memorandum of agreement to establish a witness protection programme.

Mr. Acting Speaker, the cited governments each recognised the need to combat the threat to the administration of justice posed by the intimidation of witnesses in their respective jurisdictions. This threat, in turn, extends to jurors, judicial and legal officers, law enforcement personnel and their associates, and, by further extension, to the public at large.

Furthermore, sir, the contracting parties to the agreement determined that the cooperative approach would be the most effective way to address the threat of witness intimidation. Consequently, they have all endeavoured to establish and maintain effective domestic infrastructures in order to protect and ensure the credibility of the justice systems.

Mr. Acting Speaker, in furtherance of this initiative the Government approved a proposal to enact witness protection legislation, namely, The Justice Protection Bill, 2010. It is based on model legislation for Overseas Territories. The Bill empowers the Minister of Justice to establish a domestic witness protection programme to effectively combat the problem of witness intimidation. The Bill, in turn, provides for a two-pronged legislative and administrative approach.

Mr. Acting Speaker, the Bill makes provision for the programme to provide participants within Bermuda with the necessary protection and assistance to effectively counteract the threat posed by intimidators. This domestic arm is to be administered by two complementary units. They are the Justice Protection Administrative Centre, which I will hereinafter refer to as "the Centre," and the Justice Protection Investigative and Protective Agency, ("the Agency").

Mr. Acting Speaker, the Bill details the composition, functions and powers of the Centre, and provides for the Director and staff of the Centre, who will be public servants to be appointed by the Minister of Justice. The Centre will be responsible for developing, managing and administering the programme and deciding whether a prospective participant is to be afforded protection or assistance under that programme.

The various categories of prospective participants are prescribed in Schedule 1 to the Bill, that is, witnesses and their associates and any person designated in writing by the Director of Public Prosecutions. Furthermore, in deciding the often precarious issue of whether to include a prospective participant in the programme, the Centre would be required to have regard to various matters. For example any criminal record in the prospective participant, particularly in respect of crimes of violence, and whether that record indicates a risk to the public if he was to be included in the programme.

So the Bill also prescribes the offences which may give rise to protection under the programme and requires prospective participants to disclose to the Centre certain matters. For example, details of all of his outstanding legal obligations and debts.

Those eligible will also have to make an official standard form application and sign a memorandum of understanding in accordance with clause 10 of the Bill. The document is crucial, as it is essentially a statutorily prescribed agreement between the Government and the protected party as to what the parameters of the relationship are and the conditions that must be maintained and observed by the other party in order for the Government to afford that person protection.

The Bill imposes on the Centre the key duty of maintaining a register which will contain various details including details of the matter giving rise to a participant's entry into the programme.

Mr. Acting Speaker, the Agency is established by clause 9 of the Bill to be headed by the Commissioner of Police and staffed by other members of the Police Service. It will function principally as the investigative arm of the witness protection scheme to ensure that those brought within the ambit of a witness protection meet the criteria for entry into the programme pursuant to the provisions of this Bill. Accordingly, the necessary provisions are made in respect of the Constitution functions and powers of the Agency in the Bermuda Police Force.

Mr. Acting Speaker, a critical element of the programme is the cooperation between Bermuda and any designated territory. Accordingly, clause 11 of the Bill makes provision for a Memorandum of Agreement to be entered into by Bermuda and any of the designated territories with a view to give effect to the purposes of the Bill to form the basis of this vital cooperation. In particular, an executed Memorandum of Agreement shall form the basis of cooperation between Bermuda and designated territory in relation to the objectives outlined therein. It is important to note that Bermuda is not limited to making arrangements for cooperation for witness protection with the territories designated in Schedule 4 of the Bill.

The provisions of the Act will apply, where it is considered expedient, for Bermuda to enter into a Memorandum of Agreement—or any other scheme of arrangement—with a country or territory, which is not a designated territory, in order to receive assistance from or render assistance to that country or territory in relation to the relocation of a participant. So, it is a wonderfully flexible arrangement.

Such agreements or arrangements may also be used to establish a system of cooperation for the treatment and security of a participant of Bermuda or the exchange of information pertaining to a specified witness. In the implementation of such agreements, or other schemes of arrangement, the provision of the Bill will apply with such modification as made by the Minister of Justice—subject to the negative resolution procedure—as that Minister may consider necessary and/or expedient.

So, in practical terms, in considering any applications from a designated territory for the relocation of a participant from that territory to Bermuda, the prospective participant will have to undergo the necessary threat and risk assessments in order to satisfy the criteria for entry into the programme as detailed in the Bill.

Mr. Acting Speaker, you may well imagine, secrecy and confidentiality are vital to the success of any witness programme. Therefore, the necessary provisions made under Part 3 of the Bill to impose on a participant who has been provided with a new identity under the programme a duty to refrain from disclosing his former identity unless he has obtained the prior approval of the Centre. Conversely, it is sometimes necessary to restore the participant to the identity of his former life. This is sometimes by the participant's, and at the participant's, request or where he or she is in breach of conditions of the programme or his or her conduct otherwise merits discontinuation.

Clause 17 of the Bill enables the Centre, in a case where a former participant was provided with a new identity under the programme, to restore the participant's previous identity if his protection is terminated. So that kind of a scenario is contemplated.

Mr. Acting Speaker, as has been outlined, there are many challenges posed to the administration of justice by the complexities of witness protection. The Bill provides the framework for these challenges to be effectively met. It establishes the necessary programmes and defines the roles of the various administrative components. It also defines the necessary relationships between the various participating jurisdictions. Finally, it lays out the clear procedure that those who will be availed of the protection will have to follow to be effectively protected.

In the final analysis the Bill provides Bermuda with a vital tool in the fight to ensure that the integrity of the justice system remains intact and to engender on the part of the public the confidence necessary for the effective prosecution of offences.

Mr. Acting Speaker, I now commend this Bill to the House.

The Acting Speaker: Thank you, Minister.

We are in the Second Reading of the Justice Protection Act, 2010, where the House debates the general merits and principles of the Bill.

The Chair now recognises the Honourable and Learned Member, Mr. T. Moniz, from Smith's West, who speaks for justice in the House for the Opposition.

Mr. Moniz, you have the floor.

Hon. Trevor G. Moniz: Thank you, Mr. Acting Speaker.

And this Bill very much goes on from the previous debate. This Justice Protection Act, 2010, is speaking to a witness protection programme here. Again, we are creating an entirely new framework of law here from anything that we have really had before. And so, therefore, while we support it on this side, there are questions raised.

I believe the Attorney General has said publicly that it is not expected that it will be used on a frequent basis and, therefore, the charge on the Exchequer would not get out of hand. You know, once one starts looking at establishing the budgetary requirements of the programme, one becomes concerned that it could grow very expensive very quickly if one was sending a number of witnesses around to these territories.

As I said publicly, initially, the idea is obviously everyone knows who these territories are and there are relatively few of them in the Schedule to the Bill (and I will not read them out). I know this is something, though, that within the prosecution department . . . I know the DPP has been keen on this idea of witness protection and no doubt feels it offers another arrow in the quiver that he has to fight crime, to enforce justice in Bermuda. And we are keen on this side to assist in anything towards that.

But again, obviously, it has to be monitored. And we in this place undertake to monitor its effectiveness, so far as it is reported back to this House, in terms of the budget that the Centre and the framework will require to operate.

In Schedule 2 they set out a very broad range of offences ranging from the usual, the anticipated drug offences, firearms and homicide. Then you have got high-jacking, arson, you have got money laundering, offences against property, offences against the administration of justice, offences against the Crown, domestic violence, piracy, sexual offences, and terrorism. So there is a very broad ambit to the offences which are covered under this, and to which a witness might be enabled to receive protection under this witness protection programme. So, it is going to be interesting.

Clearly, we on this side would like to see the costs retained at the minimum for the programme to be effective, and for it to be very carefully policed. As we said, there was talk already of a gentleman who was supposedly on some sort of witness protection scheme who was calling in to the radio shows from London and was not really disappearing—

[Inaudible interjections]

Hon. Trevor G. Moniz: The Honourable Member Dale Butler said he heard the man that called in. And so sometimes if you get people acting foolishly like that, it, the system's just not going to work.

And we know recently, with these changes in technology, we have the escaped prisoner this week who is up on Facebook and got his Internet Facebook account working and reporting on a regular basis as to how his escape is going along for him.

So, you know, it brings the system into disrepute and, obviously, it is something that we must combat. And we on this side obviously want to support the Attorney General and the Government in creating a justice system which is more effective and which has the belief of this community resided in it. And that is what we need—for people to believe that the system is going to be effective.

I think we still really need people to be accountable and for, in each link of the chain, people to be more effective. So we have this legislation now, we have got to make it work, we have got to go out there and make more arrests and get more convictions and close up the loopholes.

I am concerned, and when I spoke in the paper—it was not quite an accurate report in the paper—with respect to . . . I saw a situation with respect to the incident that I was anticipating might happen where, recently, I have read of incidents where there are drive-by shootings—someone trying to shoot somebody (I do not know whether it was retaliation or otherwise)—and they keep missing the person and they are hitting other people—you know, obviously, if it were a witness protection situation and you were to give them protection to that individual and move them overseas it would stop the casual drive-by shootings that we seem to have.

But, you know, it makes you believe that Bermuda is becoming a shooting gallery; that people are repeatedly going by and shooting in the same areas at the same people. And in some cases it is a gang that cannot shoot straight and they are missing and in some cases, unfortunately, they are hitting other people.

Obviously, as we all know in these situations, in many cases the perpetrator of the violence, and in some cases the victim—not in all cases, obviously—but in some cases the victims themselves are tied up with the drug trade and the gang warfare and retaliation that is going on in this country, and we have to take the steps that are necessary to keep this community safe.

And we have now seen it all across this community from, you know, not just in the Pembroke area but St. George's. We have seen it in Somerset. And it is putting people in fear of their safety, if not in fear of their lives. And that is not just a local community but, obviously, the other people upon whom we rely in this community for income—the tourists that come here, and also the international business community—are becoming increasingly concerned at the escalating levels of violence in this community.

So, I encourage the Government to do all that it can to enforce the law very strictly against these criminals.

Thank you, Mr. Acting Speaker.

The Acting Speaker: We continue the debate, the Justice Protection Act, 2010, Second Reading.

The Chair recognises the Honourable and Learned Member, Mr. S. Crockwell, from Pembroke West.

Mr. Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, unfortunately, Bermuda is becoming less like another world and more like the rest of the world. When we see legislation like this—

the fact that it is required, certainly underscores that reality.

Mr. Acting Speaker, we certainly are pleased to see the legislation today. We know that back in 2006 the Government promised such legislation in their Throne Speech. I am sure that there is going to be unanimous support in this House on this particular Bill. Many of us have been calling for it for some time. So, certainly, the fact that it has come today—although it does demonstrate that we are in a very difficult environment in Bermuda, and one that none of us can be happy with—the fact of the matter is that we believe that this is necessary in order to hopefully get greater convictions in our courts.

We have been told for some time, Mr. Acting Speaker, that a large number of cases tend to stumble as a result of lack of witness evidence. We hear almost every time when there is a major offence that occurs in our community . . . there is a cry. They must know these numbers, the Crime Stopper numbers by heart, and all the other appeals that they make, because we hear it week in and week out. We hear the police, sometimes up to the level of the Commissioner of Police, really [exhorting] the community to come forward and provide information. And in circumstances where there may be 40 to, in some cases 100 witnesses, the police cannot seem to get the necessary information in order to bring an arrest and/or a conviction. And so, obviously, it is good that we are now considering legislation which will go some way to attenuate that situation.

But, as the Honourable and Learned AG has already stated, this particular legislation will only be utilised in extraordinary and extreme cases. So, this certainly is not going to (and I will use this word quite loosely) be the panacea. But, even further, this is not going to make that great of an impact on the condition that we are confronted with, with witnesses being reluctant to come forward and give evidence.

Surely, many people are going to be unable to just pack up and move to another jurisdiction, change identity and all the type of stuff—take their children away. There are many people who will not be prepared to do that . . . and, whether or not the Government can sustain financially a large number of potential witnesses requesting that they go into witness protection.

Now, I do understand, after reading the legislation, that that is part of the extreme component of the programme. There are going to be other components where maybe a person will be in a jurisdiction for a shorter period of time—until after the trial has come and has concluded. And I understand that this already in operation. I know of an individual who actually was put into witness protection for a few months and then when the circumstances subsided, they came back to the jurisdiction. So we are just, I guess, formalising what already exists.

But I think that it is important to appreciate that this particular piece of legislation—by its very nature—will not really resolve the issue of witnesses being reluctant to come forward and give evidence because people still have this sense of intimidation, the sense of concern. I think this is only going to be used in extreme cases—cases, maybe, of murder, cases involving individuals suspected of being involved in gang violence, and the like.

So, we have to continue to explore other viable measures. And I was certainly pleased, Mr. Acting Speaker, to see in today's *Royal Gazette* the Honourable and Learned Attorney General speak about technology being put in place to allow for video-conferencing. I believe right now it is specifically for the courts and Westgate. I believe that the Honourable and Learned AG has stated previously that the Evidence Act will be amended to allow for this type of technology to be used for greater witnesses, or for witness testimony, so that an individual's identity will not have to be exposed in criminal trials. They can give their evidence via video link with their image obscured so that the identity will not be known to the suspect. Those are measures, and other measures, we have to ensure that witnesses are comfortable and are willing to come forward, because that appears to be the bedrock of the evidence that the police utilise in these cases.

The reality is, however, Mr. Acting Speaker, that those who decide to go into this programme and actually decide to change their identity and the like—that is an extraordinary step, if you think about it. People are going to go to another jurisdiction. And I was not pleased to read a few weeks ago in the *Royal Gazette* that the proposed destination . . . well, the areas where we are going to have this Memorandum of Understanding, where individuals can go, were actually disclosed in the *Royal Gazette.* A member of the police service was somewhat upset that we are actually sort of putting on alert where these individuals are going to go. I think we should keep as much information confidential as possible, because we live in a world today, as you know, Mr. Acting Speaker, where people, if they want to, will be able to go and do their own intelligence and try to figure out where this individual is if they really want to prevent that potential witness from giving evidence.

But the fact of the matter is, once an identity has changed and a person has left the jurisdiction, let's say, for example, they go to the UK and they have changed their identity. They cannot come back to this jurisdiction. If they have the loss of a family member and they may want to attend that funeral . . . as a result of this extraordinary step, which will be necessary, they would not be able to come back. And that is how serious this is. And people need to understand that we are talking about a very significant and

a very serious piece of legislation. But it is necessary, and we do support it.

The concerns that we would like to raise today are, first of all, how this programme will be financed. We have looked at other programmes around the world; one, in particular, in Honduras. They had a witness protection programme and after a few years they were unable to sustain it because it just became prohibitive in terms of costs. And I see that this would be funded out of the Consolidated Fund and presumably proceeds from crime will be used in order to fund this programme. But I will be asking the Honourable Minister if he is aware of potential costs of the programme, and whether or not he thinks that we will be able to sustain this and what type of . . . Maybe it is difficult at this stage to make these projections. But what type of numbers are we going to be considering going forward?

We do know the AG has already said that it is only going to apply in extreme cases. But, will we be able to financially sustain the programme?

I noticed that the programme will be administered by a new branch that would be created in the DPP's office with consultation from a new branch created in the Bermuda Police Service. We were concerned that there was no consultation with the judiciary. We certainly would have liked to have seen possibly a judge be involved here.

I am aware of a particular situation that happened not too long ago where an individual, who was before the courts, Mr. Acting Speaker, on a serious matter—he was being charged with a serious offence. And, whilst that particular matter was awaiting trial, a subsequent more serious offence—actually a murder—occurred in Bermuda that this particular suspect had crucial information [about].

And he then quite, I guess, intelligently, informed the police that he was prepared to give evidence in this murder case and he was then provided with protection. He entered into whatever witness protection system we have right now. And then he was sent to a different jurisdiction.

The Honourable and Learned Member who just spoke said that he is aware of someone that was in witness protection calling into our local radio shows. Well, this individual was sent to another jurisdiction—although he has this very serious offence still hanging over his head. And when that particular matter came up for mention in the court, to the judge's dismay, this particular person was not present, obviously, and [he] was informed by the DPP that he was now in witness protection in another jurisdiction.

And the judge was quite upset by that and felt that he should have been consulted, because, once a matter such as that becomes a matter of the court, then the jurisdiction of the court should prevail.

In my opinion, Mr. Acting Speaker, when individuals who want to provide evidence and then seek protection, if that particular individual is already before the court . . . and there is a litany of provisions in this particular Act that deal with those types of circumstances. But I did not see a requirement for the judiciary to be consulted to ascertain whether or not it was in the best interests of justice that that particular person be allowed to go into the programme.

I have been reliably informed that that particular person, who was in witness protection, has now gone missing. And the authorities do not know where he is. And so, in effect it appears as if he manipulated the system in order to get out of answering to the very serious charge that he was before the courts for. And I think this goes to what the Honourable and Learned Member, Mr. Moniz, was talking about earlier, and even just a moment ago, that it is all fine for us to pass legislation such as this—and, again, we have passed multiple pieces of legislation to improve the criminal justice system in Bermuda. But it will be a nugatory exercise, Mr. Acting Speaker, if we do not have the resources, if we do not have the commitment, if we do not have the expertise, and if the necessary agencies that are tasked with enforcing these laws are not doing their job effectively.

I think that what we see across the board in Bermuda is a lack of confidence in our criminal justice system. And that cannot continue. I read with interest an article from 2003 where the former Governor stated that crime was under control, and that we had a good hold on the crime situation in Bermuda. And this was in 2003. And we have recently heard comments from the new Assistant Commissioner who says that the problem is not as bad as we think, and that it is not out of control, and that he believes with his expertise and what he brings to the table that we can get in control of what at this stage is a serious situation—a situation that has reached a crisis level.

But, at the end of the day, the legislation that we pass today, the legislation that we have passed in this parliamentary session, will not be put to the test until some years down the road when we will be able to stop and see whether or not it has had the impact that we wanted it to have.

And, again, I join the chorus in saying that we have to ensure that these programmes have the sufficient resources, manpower and expertise so that it can produce the desired result.

Trust within the Bermuda Police Service is paramount in this type of legislation. No matter what we put in place, if individuals do not have sufficient confidence in the Police Service, they are not going to come forward and participate. They are just not going to do it. We live in a very small community.

I did not see a provision in this Act which set out a substantial penalty for anyone that is involved in the programme and discloses confidential information, because the impact can be grave. I think that we need to send a message to those who are actually adminis-

tering this programme that they have to ensure that confidentiality is held at a very high standard and that people in the community must have confidence that if they come to the police that their identity will be protected, that the information they give them will be secure and that their safety would not be at risk.

So, we do support the legislation. It is unfortunate, Mr. Acting Speaker, that we have to be considering it today. It is unfortunate that we have come to this point that we have seen a raft of legislation similar to this—which is extreme. But, Mr. Acting Speaker, it has become necessary.

I do implore the Government to not stop here. That this does not just become a symbolic gesture, that it produces the desired result and that, yet again, Mr. Acting Speaker, we can get in control of the circumstances in this country as it relates to crime—serious crime and violent crime—and that we would not have a need for this type of legislation going forward.

Thank you, Mr. Acting Speaker.

The Acting Speaker: We continue with the Second Reading of the Justice Protection Act 2010.

The Chair recognises the Honourable Member, Mr. W. H. Roban, from Pembroke East.

Mr. Roban, you have the floor.

Hon. Walter H. Roban: Thank you very much, Mr. Acting Speaker.

I think, Mr. Acting Speaker, I can perhaps encapsulate the importance of this legislation, if you will just indulge me with a few lines from the Minister's brief.

It lays out the clear procedure that those who will be availed of protection will have to follow to be effectively protected. And, in the final analysis, the Bill provides Bermuda with a vital tool in the fight to ensure that the integrity of the justice system remains intact and to engender on the part of the public the confidence necessary for effective prosecution of offences.

Once again, I compliment the Attorney General's Chambers—the Attorney General, her team, and those who have been involved with bringing this here. Certainly the Bermuda Police Service is pleased to have this tool available and to be a part of the framework that will essentially administer what is the Justice Protection Act, 2010, and the framework that it ultimately puts in place.

I do not think, Mr. Acting Speaker, that the significance of this Bill can be understated, simply because of the work that it has taken to even get this framework to be actually real. It is not just about what legislation has been written here. But, as has been outlined by the Minister, it took agreements throughout the family of Dependent Territories to create what can truly be a witness protection framework—obviously, with the agreement of the British Government.

All of that clearly goes beyond the borders of Bermuda and what we are capable of doing here. But it can only be successful essentially by the relationships and by the framework that is collaborative between Bermuda and the respective territories and, ultimately also, as the Bill does create a capacity to create a relationship with a territory that has not been at this point defined.

But I think we cannot underestimate the appreciation of the work that it has taken to get to this point. We have had a crisis in this country around law and order. We have had a challenge with witnesses coming forth and providing the authorities—the Bermuda Police Service—with effective evidence or testimony or statements that can contribute to effective prosecutions. And that has been a point of frustration for many, particularly those who have been the victims of these crimes who seemingly see justice slip away because people in the community who perhaps have crucial evidence—certainly, they were a crucial witness in an incident—are fearful of coming forth.

At least now, having the work clearly . . . it must have meant meeting with Dependent Territory heads—at least those people responsible for the administration of justice in those territories. It meant certain discussions with the British Government. It meant coming together and ensuring that each one of these territories had the capability of creating the framework that could aid all of their needs because, clearly, as we have been fully appraised in this House, Mr. Acting Speaker, the problem is not just ours. Cayman, Turks, BVI are all facing the challenge of this nature, of ensuring that effective justice and the confidence in the system can be maintained by ensuring the safety and security of witnesses. So I just think that it is important to note that a considerable amount of work had to be done.

This is one of those, perhaps, unique pieces of legislation that seemingly Honourable Members have identified. Certainly the Opposition has noted it. And, certainly, we are ourselves are ensuring that this is noted, that this is one of those seminal pieces of legislation. It is new; it is providing something that is new to our justice framework. But it is an essential tool and the police are certainly up to the challenge as they will be responsible for the agency which will be established, headed by the Commissioner of Police and staffed by members of Police Service. So they have a crucial component to play in this. And they are up to the challenge. They are prepared, because they know that this is just another piece of, perhaps, a tapestry that is being woven as we go along to have a solid grip on the criminal justice challenge within our country. I am not saying that it is a point of comfort, but it is a point of understanding that we are not the only ones in this particular situation.

So, again, I congratulate the Chambers, the Attorney General and the team, for bring this forward as another piece of new component to our justice system, and that we will be well served. And, as the Honourable and Learned Member before me said, perhaps not right now are we going to see on the immediate, but over time, as this tool is employed and shows itself to be effective, we will see how this Justice Protection Act framework will serve and aid the fight in crime.

Thank you very much, Mr. Acting Speaker.

The Acting Speaker: Continuing in the Second Reading of the Bill, Justice Protection Act, 2010. Does any other Honourable Member in the House wish to speak to the Bill?

No?

Does the Minister in charge, spokesman for justice in the House, the Honourable and Learned, Mr. Michael Scott, wish to reply, sir?

Hon. Michael J. Scott: Mr. Acting Speaker, merely to thank Members for taking part in the debate, but in particular for supporting justice protection provisions, a new standalone provision entered into our framework of the criminal justice system. And I hope that persons who decide that they are going to take the major step of changing their identity . . . I want to, in advance, both thank and commend them for lending support to making and bringing confidence into the criminal justice system and the administration of justice in our country.

Some will take the option. As has been said in the debate, it is not going to be everyone lining up to do it. Only certain people will do it. But people who make that decision are plainly and obviously committed to wanting to help the country and to support this system of justice in Bermuda.

I take on board the observation of the Honourable and Learned Member, Mr. Moniz, about how we must make sure that we watch costs. We must resource it and we must also, as was also observed by the Honourable and Learned Member, Mr. Crockwell, ensure that it is properly resourced so that it does work. I think that all of these matters can be managed well within the Ministry of Justice and the DPP's office and the police.

With those concluding observations, I do not believe that there are any other questions.

There were penalties. The Honourable and Learned Member, Mr. Shawn Crockwell, did ask about penalties being adequate. And they are provided for in [clause] 21 of the Bill, and will be covered when we go into Committee. But they are significant. They are part of the belt and braces that deal with disclosure of identity or disclosure of another person's identity. So it is there in [clause] 21, listing the important sanctions for messing around with this protection system that we are now discussing.

The Acting Speaker: And we will come on to that in Committee.

Hon. Michael J. Scott: And I move that the Bill be committed.

The Acting Speaker: It has been moved that the Bill now be committed to the Committee of the whole House.

The Honourable Member, Mr. W. Furbert from Hamilton West, please take the Chair of the Committee.

House in Committee at 5:04 pm

[Hon. Wayne L. Furbert, Chairman]

COMMITTEE ON BILL

JUSTICE PROTECTION ACT 2010

The Chairman: [Inaudible—microphone not turned on]

Hon. Michael J. Scott: Thank you Mr. Chairman.

Mr. Chairman, in this item there are 30 clauses to the Bill, from 1 to the commencement.

I am in your hands. I am prepared to move all 30 clauses and go through them, unless—

The Chairman: [Inaudible—microphone not turned on]

Hon. Michael J. Scott: Very well. Thank you, sir. I thank Members of the House.

Clause 1 is the citation, and gives the name of the Bill.

Clause 2 is also self explanatory, setting up the interpretation and definitions.

Clause 3 deals with the establishment of the Justice Protection Programme. The Programme would provide two participants, protection and assistance, and would be administered by two units: Justice Protection Centre and Justice Protection Investigative and Protection Agency ("JPIP Agency").

Clause 4 deals with the composition, functions and powers of the Justice Protection Administrative Centre within the offices of the DPP. The Centre would be responsible for developing, managing and administering of the Programme, and deciding whether a prospective participant is to be afforded protection or assistance under the Programme.

So, there various categories of prospective participants are described in Schedule 1. In deciding whether to include a prospective participant in the

Programme, the Centre would be required to have regard to various matters—for example, any criminal record of the prospective participant, particularly in respect to crimes of violence and whether that record indicates a risk to the public were that person to be included into the Programme.

Clause 5 prescribes the procedure for submission of an application for entry into the Programme.

Clause 6 and Schedule 2 prescribe the offences which may give rise to protection under the Programme.

Clause 7 requires the participant to disclose to the Centre certain matters. For example, details of all outstanding legal obligations and/or debts.

Clause 8 requires the participant to apply on an official form and to sign a Memorandum of Understanding as provided for in clause 10.

Clause 9 makes provision in respect of the constitution, functions, and powers of the JPIP Agency within the Bermuda Police Service.

Clause 10 and Schedule 3 make provision in respect of the Memorandum of Understanding to be signed by participants in the Programme.

Clause 11 makes provision for any Memorandum of Agreement entered into by Bermuda and any of the designated territories with a view to giving effect to the purpose of the Bill to form the basis of cooperation between the countries and the implementation of such agreement. The Bill will reply with such modifications as made by an order by the Minister of Justice, subject to the negative resolution procedure be considered necessary and expedient.

Clause 12 imposes on the Centre the duty of maintaining a register which would contain various details including the details of the matter giving rise to the participant's entry into the Programme in the first place.

Clause 13 regulates access to the register.

[Clause] 14 describes the procedure for ensuring that a participant is able to exercise his or her legal rights and carry out his or her obligations.

Clause 15 imposes on a participant who has been provided with a new identity under the Programme, a duty not to disclose his former identity unless he has obtained the prior approval of the Centre.

Clause 16 prescribes the circumstances under which protection or assistance under the Programme would be terminated.

[Clause] 17 enables the Centre, in a case where a former participant was provided with a new identity under the Programme, to restore the former participant's previous identity if the protection is terminated.

Clause 18 specifies the information that may be disclosed by the Centre where a participant who has been provided with a new identity is under investigation for, or has been arrested, or charged with, an offence; the maximum penalty for which is imprisonment for a period of more than one year, or excess of one year.

Clause 19 and Schedule 4 make provision for the external enforcement of the Justice Protection Programme in certain territories.

[Clause] 20 protects the officers of the Centre and of the Agency from any type of liability of civil suit.

Clause 21 creates offences under the legislation with penalties set out (the point that was raised by the Honourable and Learned Member Mr. Crockwell).

Clause 22 provides for confidentiality in respect of participation under the Programme. Schedule 5 sets out the Justice Protection Programme certificate which is to be used for evidentiary purposes.

Clause 23 deals with a case where a participant who has a new identity is to appear as a witness in criminal proceedings.

Clause 24 protects the disclosure of a participant's new identity, where in court proceedings the new identity is an issue.

[Clause] 25 requires submission of annual reports by the Center in respect of the general operation, performance and effectiveness of the Programme so that the belt and brace is there and transparency.

Clause 26 enables the Minister to make regulation to give effect to the Bill, subject to the negative resolution procedure. Orders made under the Bill will also be subject to the negative resolution procedure.

[Clause] 27 enables designation of the approved authorities for the purpose of the legislation.

[Clause] 28 makes provision for the amendment of the Schedules by an order.

Clause 29 provides for expenses incurred under the Act to be met out of the Consolidated Fund.

And clause 30 provides for the commencement of this Bill, of this Act, by way of notice in the *Official Gazette*.

Thank you.

The Chairman: Thank you, Minister.

Would any other Member like to speak to the Justice Protection Act, 2010?

The [Chair] recognises the Honourable Member, Mr. Crockwell, from Pembroke West, constituency 19.

Mr. Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Thank you, Mr. Chairman. Just a few questions for the Honourable Minister.

I am looking at clause 4. And clause 4(1)(a), "a person holding public office in the Office of the DPP, who shall be appointed as the Director of the Centre." Actually this is talking to the individuals who will be making up the various units—one unit, which

will be coming out of the office of the DPP, and the other unit coming out of the Bermuda Police Service.

I was just wondering, as it pertains to the office of the DPP, will this be separate and distinct functions? Or will this just be additional functions of the existing Crown Counsel or staff at the DPP? I was not quite certain if they will be setting up a completely new, sort of, office and staffing it independently of those who are already there. Presumably, it will just be an extension of pre-existing functions.

Also, I just wanted to ask a question in relation to clause 8 and clause 9. I was not quite clear in clause 8. Again, this seems to deal with the manner in which the prospective participant will commence participation in the programme. In clause 8 it says, in subsection (a), "subject to section 5, he applies to be included in the Programme on a form issued by the Centre for that purpose."

So the Centre, which is an extension of the office of the DPP, will be providing the application form. But then, when you go down to clause 9(2)(a), now we are now talking about the JPIP Agency which comes out of the Bermuda Police Service. It says, "In relation to the possible inclusion of a prospective participant in the Programme, the JPIP Agency– (a) shall conduct investigations and submit to the Centre the participant's application form . . ."

Based on that, it appears as if the participant, the prospective participant, will go to the Centre (which is within the DPP's Office) to fill out the form and then, I am presuming they submit the form to the JPIP. Then they will do their assessments, and then the JPIP will send the form back with the results of its assessment back to the DPP. So it just did not seem . . . it made more sense if the form was originally at the JPIP; but it did not seem clear. It looks like my interpretation of it may have been correct.

Then, finally, I do appreciate the Honourable Minister drawing my attention to clause 21. I was actually most concerned about clause 20 in my remarks in the House, that is, the indemnity clause for the offices, and quite rightfully so. We understand that they need to have protection in the administration of their duties.

But I was just concerned that there was no statement, although [clause] 21 will deal, obviously, with any offences that a particular person who is engaged in this Programme . . . and if they happen to be in office or happen to be a member of the DPP, they will be liable accordingly. But even if they were acting in the course of their duties, I think that it is important that people feel confident that the officers themselves appreciate the importance of confidentiality.

Many people in our community, Mr. Chairman, feel that if they go to the police and they give information that, before they get home, that information has been disseminated into the public. So, I would have been a little bit more comforted to see that the officers would be held to a very high standard to ensure that they are not in a position to disclose this very sensitive information.

Thank you, Mr. Chairman.

The Chairman: Thank you, Mr. Crockwell.

Would any other Member like to speak to the Justice Protection Act, 2010?

The [Chair] recognises the Honourable Member, Dr. E. G. Gibbons, Paget East, constituency 22.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman.

I would just like to make sure that I have a clear understanding of clause 11 and, to some degree, 12 as well.

Obviously, in order for this to work, there needs to be this Memorandum of Agreement executed between Bermuda and, presumably, the other Overseas Territories here. One of the questions I have is: Is there a timeframe in which this piece of legislation will be enacted in the other territories as well? Because I presume you have to have, sort of, a mirror piece of legislation in the other territories in order to have protection for Bermudians who may be there under the auspices of this particular Justice Protection Act.

So, that is the first question: Is there a timeframe? And will this identical piece of legislation, or something pretty close, be enacted in those territories? Because, obviously one of the issues here is that it is fine to have protections on this end, to make sure that the identity of these individuals are protected here. But you also need to make sure when they go to one of these other territories that there is legislation in place that will be reciprocal and will have similar sanctions or offences if someone there, as it were, blows their identity or outs them, or whatever else.

I am just kind of trying to get a better understanding here as to how this is going to work reciprocally. Because we can do all the right kinds of things here, but if you have another territory which does not have something in place, or if it is not strictly comparable to this, then, clearly, it may fall down.

That leads me to my question about clause 12, which is the Register of participants. Under Schedule 1 the definition of participants here is "witnesses and their associates" or "any person designated in writing by the DPP." Does the word "participants" here also mean participants from other Overseas Territories that may be placed in Bermuda? Because, clearly, the Centre, if they are going to be maintaining a list, also needs to have some understanding of who is in Bermuda as a consequence of being protected from somewhere else.

I guess the question I have here is: Is it envisaged that this list would include all of the participants in all of the territories? Or just the participants that are

witnesses that are being protected from Bermuda who are then going to other territories? And I guess really part of what I am asking here is: Does it include the participants from other territories who are based in Bermuda? There clearly has to be an understanding of who is here from other places, because if they get into problems or have other issues it is going to be . . . unless the passport is being changed and the identity is really being refocused there is an opportunity here for their cover, as it were, to be blown.

So, Mr. Chairman, a couple of questions are in there. But I am trying to understand how this is going to work both on the Bermuda end being protected there—somewhere else—and also how participants there, coming to Bermuda, are going to be protected on this end.

Thank you, Mr. Chairman.

The Chairman: Thank you, Dr. Gibbons.

Would any other Member like to speak to the Justice Protection Act, 2010?

No other Members?

Minister, would you like to respond?

Hon. Michael J. Scott: Thank you, Mr. Chairman.

I thank Honourable Members for their questions.

The Honourable and Learned Member, Mr. Crockwell, answered his second question; but his first question relating to clause . . . about the DPP's office and the arrangements there. It will be an extension of the existing staff and complement of staff within the DPP's office that will carry this out as opposed to any special—

[Inaudible interjection]

Hon. Michael J. Scott: Yes.

And the Honourable Dr. Gibbons asked a number of questions about process, the participants. Other participating territories are passing legislation very similar to ours. I confirm that. Even as we speak it is happening in some territories.

And, in sequence, the other participating territories indicated in the Schedule (I am not going to name them for obvious reasons), their legislation is rolling out very shortly—all driven by the Memorandum of Understanding that the Attorneys General met and discussed. So everybody has coordinated fairly, and very well, may I say.

Your question on participants from a protection programme from outside of Bermuda being listed in the whole list of participants in the register is an interesting question. (I am putting on my glasses to make sure that I see.)

As I understand it from my colleague, the Attorney General, the answer is, yes, that the participants will all . . . the list . . . it is a model law. Yes, it is a model law put in territory to territory. The list in Bermuda, for example, is going to list for Bermuda. Participants leaving Bermuda and going to a participating territory will have an equivalent list.

To the extent . . . I do not know to what extent, and I will find out, it is going to be a sharing of that list or there being a global list. I think that will get into difficulty. . .

[Inaudible interjection]

Hon. Michael J. Scott: No. That is not going to happen, the Attorney General is saying.

Though, each territory will have its list . . .

[pause]

The Chairman: Yes, just clarifying that something is . . . in case the audience is—

Hon. Michael J. Scott: I am going to come over to the Honourable and Learned Member at the conclusion of my remarks and give him clear explanation.

I hear the Attorney General, but I like—

The Chairman: We want to hear all the sequence.

Hon. Michael J. Scott: The Madam Attorney [General] has not been able to send me an email. But it is a good question, and I will happily address it for Dr. Gibbons.

Those were the questions that were raised. Again, I thank Honourable Members for their questions and for their support of the item.

The Chairman: Would you move the Preamble now?

Hon. Michael J. Scott: I move the Preamble, sir, and that the Bill be reported to the House without amendment.

The Chairman: Those in favor of the motion say Aye. Those against say No.

AYE.

The Chairman: I think the Ayes have it.

Those in favor of reporting the Bill to the House say Aye. Those against say no.

AYES.

The Chairman: I believe the Ayes have it; loud and clear.

Put it to the House.

[Motion carried: The Justice Protection Act, 2010, was considered by a Committee of the whole House,

passed without amendment, and will be reported to the House.]

House resumed at 5:23 PM

[Mr. John Barritt in the Chair]

REPORT ON BILL

JUSTICE PROTECTION ACT 2010

The Acting Speaker: The Bill entitled, Justice Protection Act, 2010, has been reported to the House as being approved without amendment.

Are there any objections to the Report of the Committee?

No?

So approved.

[Gavel]

The Acting Speaker: On the Order Paper we now move on to the Second Reading of the Traffic Offences Procedure Amendment Act . . . Government Business.

The remaining Government Business is carried over?

Hon. Michael J. Scott: Yes, please.

The Acting Speaker: I think the same is true of the Second Reading of the Parliamentary Election Amendment Act, 2010, and the resumption of debate on the motion moved by Mr. Simons.

So we now come to Third Readings.

Before that, the Chair recognises the Honourable Member, Mr. Z. De Silva, from Southampton East Central . . . Mr. De Silva, you will give us a moment?

[pause]

[Hon. Dame Jennifer Smith, Deputy Speaker, in the Chair]

The Deputy Speaker: Mr. De Silva, you have the floor. You may continue.

SUSPENSION OF STANDING ORDER 14

Hon. Zane J. S. De Silva: Thank you, Madam Deputy Speaker.

I move that Standing Order 14 be suspended to enable me to present the following Bill, The Municipalities Reform Act, 2010.

The Deputy Speaker: Okay, let me put that question.

Members, it has been moved that Standing Order 14 be suspended so that the Minister may table a Bill.

Those in favor of that motion signify by saying Aye. Those against say No.

AYES.

The Deputy Speaker: The Ayes have it.

[Motion carried: Standing Order 14 suspended.]

The Deputy Speaker: Continue, Minister De Silva.

INTRODUCTION OF BILL

MUNICIPALITIES REFORM ACT 2010

Hon. Zane J. S. De Silva: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, this Bill seeks to make a number of amendments to the Municipalities Act 1923, the principal Act, and other related legislation.

The Deputy Speaker: Thank you, Minister De Silva, that item has been tabled.

The Chair recognizes the Honourable Neletha Butterfield, the Minister for. . .

That is fine.

SUSPENSION OF STANDING ORDER 14

Hon. D. Neletha I. Butterfield: Okay. Thank you, Madam.

I move that Standing Order 14 be suspended to enable me to present the following Bill.

The Deputy Speaker: To move that the Standing Order 14 be suspended to allow the Minister to table a Bill.

INTRODUCTION OF BILL

MOTOR CAR AMENDMENT (NO. 2) ACT 2010

Hon. D. Neletha I. Butterfield: Thank you, Madam Deputy Speaker.

The Motor Car Amendment (No. 2) Act, 2010. This Bill seeks to amend the Motor Car Act 1951, the Act to prohibit the owner or occupier of a fractional unit from owning or registering a private motorcar; and to authorise the Minister to issue permits.

The Deputy Speaker: Thank you, Minister.

Are there any other Ministers to suspend the Rules? If not, I will take Third Readings.

Nobody has a third reading? Then I will move on.

The Chair recognises the Honourable and Learned, M. J. Scott, Minister of Telecommunications and E-Commerce.

Minister Scott.

THIRD READING

POLICE AND CRIMINAL AMENDMENT (NO. 2) ACT 2010

Hon. Michael J. Scott: Deputy Speaker, good afternoon.

I move that the Bill entitled the Police and Criminal Amendment (No. 2) Act, 2010, be read a third time.

The Police and Criminal Evidence (No. 2) Act, 2010, I move that this Bill do now pass.

The Deputy Speaker: Thank you, Minister.

Hon. Michael J. Scott: Continue under this . . . sorry.

The Deputy Speaker: I must put the question.

Those in favor of that motion signify by saying Aye. Those against say Nay.

AYES.

The Deputy Speaker: The Ayes have it.

[Motion carried: The Police and Criminal Amendment (No. 2) Act, 2010, given a third reading and passed.]

The Deputy Speaker: Continue Minister.

Hon. Michael J. Scott: Continuing under Standing Order 21 suspension. I move that the Justice Protection Act of 2010 . . .

The Deputy Speaker: It is a separate motion.

THIRD READING

JUSTICE PROTECTION ACT 2010

Hon. Michael J. Scott: A separate motion. Thank you, Madam Deputy Speaker.

I wish to move the reading of the Justice Protection Act, 2010, for a third time and by its title only.

The Justice Protection Act, 2010; I move that the Bill do now pass.

The Deputy Speaker: To move that the Justice Protection Act, 2010, may now pass.

Those in favor of that motion signify by saying Aye. Those against say Nay.

AYES.

The Deputy Speaker: The Ayes have it.

[Motion carried: The Justice Protection Act, 2010, given a third reading and passed.]

The Deputy Speaker: We had another Act. Is no one going to move the Third Reading?

Hon. Michael J. Scott: Which Act?

The Deputy Speaker: Of the West End Development Corporation.

THIRD READING

WEST END DEVELOPMENT AMENDMENT ACT 2010

Hon. Michael J. Scott: Oh, certainly, there is.

Madam Deputy Speaker, on behalf of the Minister of Works and Engineering, and under the suspended Standing Order, I—

The Deputy Speaker: You, again, are asking for the suspension of the Order.

Hon. Michael J. Scott: Thank you.

The Deputy Speaker: It needs to be suspended each time.

Hon. Michael J. Scott: I move for leave to read for the third time the West End Development Amendment Act, 2010.

The West End Development Corporation Act, 2010; I move that the Bill do now pass.

The Deputy Speaker: To move that the West End Development Corporation Amendment Act, 2010, be now passed.

Those in favor of that motion signify by saying Aye. Those against say Nay.

AYES.

The Deputy Speaker: The Ayes have it.

[Motion carried: The West End Development Corporation Act, 2010, read a third time and passed.]

The Deputy Speaker: There being no other Orders, I will recognise a Minister who stands . . . that being the Honourable and Learned Michael Scott.

ADJOURNMENT

Hon. Michael J. Scott: Madam Deputy Speaker, I move that the House do now adjourn to Monday 19th of July.

The Deputy Speaker: It has been moved that the House do now adjourn to Monday the 19th of July.

Does any Honourable Member wish to speak to that motion?

No?

Agreed to.

Continue.

Hon. Michael J. Scott: Madam Deputy Speaker, I move that the House do now adjourn.

The Deputy Speaker: Does any Honourable Member wish to speak to that motion.

No?

Agreed to.

The House stands adjourned until Monday the 19th of July.

[At 5:30 pm the House stood adjourned until Monday, 19 July 2010.]

BERMUDA HOUSE OF ASSEMBLY

OFFICIAL HANSARD REPORT
19 JULY 2010
10:00 AM

Sitting Number 30 of the 2009/10 Session

[Hon. Stanley Lowe, Speaker in the Chair]

PRAYERS

[Prayers read by Hon. Stanley Lowe, Speaker]

CONFIRMATION OF MINUTES
9 JULY 2010

The Speaker: Confirmation of the Minutes of the 9th of July. They have been circulated and should be on Honourable Members' desks or in Honourable Members' seats.

The Minutes of the 16th of July are being deferred.

Is there any objection to the Minutes of the 9th of July?

Agreed to.

[Motion carried: Minutes of 9 July 2010 confirmed]

MESSAGES FROM THE GOVERNOR

The Speaker: There are none.

ANNOUNCEMENTS BY THE SPEAKER

COURT OF APPEAL AMENDMENT ACT 2009

The Speaker: I just wish to make the following announcements to formalise something that we did at the last day of meeting regarding the Bill that had been tabled by the Honourable and Learned Member Mr. Barritt. This is simply formalising what we have already done.

"Dear Honourable Members:

"I wish to advise Honourable Members and the public that the Bill entitled the Court of Appeal Amendment Act 2009 in the name of the Honourable and Learned Member Mr. J. Barritt has, on my instructions, been moved from the Order Paper.

"It is my ruling that the Member cannot proceed with the Bill now that the House has approved the Court of Appeal Amendment Act 2010; on that basis, that to do so would be contrary to Standing Order 39; namely, that once a second reading of any Bill has been agreed to, no question shall be proposed during the same session for the Second Reading of any other Bill that contains substantially the same provisions, which would be the case if the Honourable and Learned Member proceeded with this Bill.

"I have so informed the Honourable and Learned Member, Mr. Barritt, and further, in accordance with Standing Order 49, now call upon him for the record to formally withdraw the Bill which stands in his name."

I recognise the Honourable and Learned Member Mr. Barritt.

COURT OF APPEAL AMENDMENT ACT 2009
(Withdrawn)

Mr. John Barritt: Thank you, Mr. Speaker. I so withdraw the Court of Appeal Amendment Act 2009.

The Speaker: Thank you, Mr. Barritt.

[Hon. Dame Jennifer Smith, Deputy Speaker, in the Chair]

MESSAGES FROM THE SENATE

The Deputy Speaker: There are none.

PAPERS AND OTHER COMMUNICATIONS TO THE HOUSE

The Deputy Speaker: The Speaker recognises the—no? There are none.

PETITIONS

The Deputy Speaker: There are none.

STATEMENTS BY MINISTERS AND/OR JUNIOR MINISTERS

The Deputy Speaker: I recognise the Honourable Premier, Dr. Ewart Brown.

Mr. Premier, you have the floor.

SELF-REGULATING MEDIA COUNCIL

Dr. the Hon. Ewart Frederick Brown: Madam Deputy Speaker, Honourable Members will be aware that this Government introduced a Bill entitled the Media Council Act 2010 for the consideration of this Honourable House at the beginning of this session. The introduction of that Bill spurred the local media into action and the international watchdogs into a fence.

In the months since the Bill was placed on the Order Paper, a considerable amount of work has been done by the local media and, led by Mr. Tony McWilliam, Editor of the *Bermuda Sun,* a self-regulating council has been set up. Madam Deputy Speaker, Mr. McWilliam's leadership in this regard has been exemplary. And largely through his efforts, a workable code of practise has been devised. Twelve media outlets have subscribed to it and proposed to be governed by its tenets.

Madam Deputy Speaker, while I remain sceptical about the commitment of many in the media to practise what they now preach, the steps taken thus far are positive ones and must be encouraged. It is too soon to say that this Bill is no longer required and, as such, while it may not be taken up in this session, it remains at the disposal of legislators in the next.

Madam Deputy Speaker, the business of accountability is not new to governments in Bermuda, but it is uncharted territory for the media. In much the same manner as the affairs of Government are enhanced by strict accountability measures and the vigilance of members of the public, the same is required of the media. In the absence of a statutory framework, it is the responsibility of every citizen to demand accuracy, fairness, and balance in the media's reporting.

Ownership of the code of practise must now be fostered through ease of access and a committed PR campaign to ensure that the public is well informed of its rights. The public has a right to know.

Madam Deputy Speaker, it is unfortunate that prior to the growth of a self-regulating council, its brief adolescence was characterised by vilification of this Government for promoting the very ideals that now form the coalition of self-regulation—clear evidence, Madam Deputy Speaker, that in Bermuda it is not what you say, but who says it.

Madam Deputy Speaker, this Government is pleased to have ignited the flame of improved media standards, and we will continue to safeguard the rights and freedoms of all people in this community, striking the balance between freedom and fairness.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Premier.

Does any other Honourable Minister have a statement?

The Chair recognises the Honourable W. H. Roban, the Minister of Health and the representative for Pembroke East.

Minister Roban, you have the floor.

HEALTH SERVICES FOR SENIORS

Hon. Walter H. Roban: Thank you, Madam Deputy Speaker.

I rise this morning to speak about health care services for seniors on this Island.

There has been discussion within the community over the past few years on the range and quality of health care services available to seniors in Bermuda. In the past, Madam Deputy Speaker, concerns have been raised about a number of issues, including changing demographics and ageing population, fragmentation of services, the inconsistent application of standards of care, reliance on institutional services and institutions, inadequate long-term care facilities and services, inadequate community-based services, limited assistance for families, and lack of family support services.

Since these matters have been the subject of continued discussion, I would like to take just a few minutes to address some of them this morning.

Madam Deputy Speaker, there are a number of critical questions that we must ask. What is our vision for the Island's health system, particularly as it relates to seniors? How do we ensure a balance between disease prevention and health promotion and treatment of illness and disability? How do we move from a medical model to a more comprehensive, integrated approach, and a full continuum of care and support services? How should our services be organised? Should health systems be radically restructured? What additional services—human resources, facilities services—do we need?

Madam Deputy Speaker, our goal is to ensure that high-quality health care is available, accessible, and affordable for all of the Island's residents—particularly seniors. And I will just repeat that so that persons know it is clear: Our goal is to ensure that high-quality health care is available, accessible, and affordable for all of the Island's residents, particularly seniors.

It is imperative that we provide a full continuum of care and support services; that we focus on disease prevention, health maintenance, health promotion, and early intervention and rehabilitation services; further, that we integrate health care and social services and provide coordinated and integrated service delivery.

Madam Deputy Speaker, there have been a number of reviews of health care services and health care delivery on the Island, including the Cape report and the Study of the Needs of the Elderly. The two most recent having been the 1996 health review known as the Oughton Report and the Healthcare Redesign Initiative by Arthur Andersen; the Report on Strategic Planning Initiative between the Ministry of Health and Family Services and the Bermuda Hospitals Board.

The Healthcare Redesign Initiative focused on four areas: disease management, pharmaceuticals, elder care, and reimbursement. Disease management to ensure appropriate management of specific conditions affecting the elderly population, such as diabetes, heart disease, stroke, et cetera; pharmaceuticals, because of the concerns about the high cost of drugs

and the availability of some drugs; elder care, because of the concerns in quality and availability of health care services for seniors; reimbursement, because of concerns about escalating health care costs and disincentives to financing some services.

Madam Deputy Speaker, as part of this process, an elder care team, a multi-disciplinary group of Bermudians including providers and key stakeholders, defined a criterion for a successful elder care program, identified barriers to access, and reviewed and refined recommendations from previous reports. In addition, the elder care team identified a number of common concerns for seniors and health providers.

These included changing society, nursing homes, transportation, insurance coverage, Government coverage, community nursing, geriatrician, day care, general home care and training.

Madam Deputy Speaker, further, the elder care team articulated a vision for the future that focused on the following elements:

- integrated health care delivery
- quality care focused on rehabilitation
- educated providers, families, and community
- hospital redesign and outpatient services
- reimbursement

Specifically, their vision included the following points:

- Seniors are respected by the community for their knowledge, experience, and contributions.
- Seniors' needs are well understood by their families, caregivers, and the community.
- Health care is integrated at all levels of care delivery.
- Planning for elder care is coordinated.
- Health care providers focus on patients reaching their full potential for rehabilitation and provide ongoing support.
- Health care is affordable, accessible, and of the highest quality.

Madam Deputy Speaker, the elder care team made a number of recommendations for services and changes to health care delivery. These include the following:

- Health screening risk assessment—development of a risk assessment tool and a screening and intervention program
- Elder services coordinating agency—development of a single coordinating agency under the Ministry
- Standards—development of standards for long-term care facilities, services, and training programmes
- Regional care facilities—development of services along regional lines
- Shared services—ensuring resources are shared and not duplicated
- Community rehabilitation—social services, nutrition, and nursing services
- Expanded resources
- Services to help maintain seniors in the community and in their homes rather than in institutions
- Home health reimbursement ensuring payment for community-based services and home health care
- Geriatric specialty clinic—development of a geriatric special clinic and more efficient use of the geriatrician
- Rehabilitation unit—development of a stroke unit at the hospital, and improved rehabilitation services
- Disease management programmes—development of high-quality disease management programmes, standardisation of care tools, et cetera
- Community continuing education programmes—improved training for caregivers, including health care providers and family caregivers
- Wellness clinics—increased focus on rehabilitation, prevention, and wellness

Madam Deputy Speaker, what have we done and what are we doing? Very good question. First, we have worked to expand community-based services. The Bermuda Hospitals Board has developed a home health programme. And the former Hospital Insurance Commission improved coverage for some home health services.

Second, expanded the role of the Office of the Coordinator, Seniors and Disabled, and established what is now known as the National Office for Seniors and the Physically Challenged to provide a range of services for seniors in one facility, including assessment, case management, referrals, and follow-up services. That, Madam Deputy Speaker, is the one-stop-shop for all seniors. Whether you have any problems or not, that is where they can get their information rather than running around the country to find it.

The Deputy Speaker: Yes.

Hon. Walter H. Roban: Thirdly, Madam Deputy Speaker, reviewed parish rest homes in conjunction with the Bermuda Fire Service and the Ministry of Works and Engineering; identified needs for facility improvement plans and established priorities for facility improvement.

Fourth, which is something you will be very knowledgeable of, opened the Sylvia Richardson Care Facility and initiated renovations to the Lefroy [House] Care Community.

Fifth, adopted "the Eden philosophy of Care" at both these long-term care facilities. I must say, Madam Deputy Speaker, that I think anyone who has an opportunity to get acquainted at what happens at Sylvia Richardson and Lefroy will find that the staff down there are extremely dedicated. It would appear as if they have a certain temperament and approach that is unique, that I find to be very nurturing and almost peaceful in how they deal with the seniors. They should be credited for the work they do.

The Deputy Speaker: Yes. Respectful workers.

Hon. Walter H. Roban: Yes. I mean it is just unique. And I think that any person who has the time should go and visit to find out how they do things.

We are presently working through the feasibility of transferring responsibility for the management of Sylvia Richardson Care Facility and Lefroy to the Bermuda Hospitals Board. Madam Deputy Speaker, I can confirm that before the end of summer, Bermuda will again have the services of a geriatrician.

Madam Deputy Speaker, a great deal of work continues within the Department of Health, the BHB, and the National Office to address the needs of our elder community. In addition, Honourable Members will be aware of the wellness clinics, dental clinics, Future Care, and the recent introduction of diabetes guidelines, which everyone was given information on in this House not too long ago.

And if Members remember, we recommended that everyone in the country get themselves checked for their diabetes profile so that everyone will know where they are and we can help prevent diabetes from happening and from being a long-term scourge for our country. So that was something that we have directed everyone to do.

All point directly back to the recommendations within the reports I have mentioned. Madam Deputy Speaker, there is often criticism of the number of reports that are drafted and the lack of delivery against the recommendations. I am pleased to report that the Ministry of Health continually assesses its performance against the recommendations of the reports we commission. And I have continued that process from my predecessors, Madam Deputy Speaker.

Those reports represent benchmarks for improvement in care and quality of life. All of this points to an overall goal of ensuring healthy people in healthy communities.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Minister Roban.

Are there any more Ministerial statements?

I recognise the Honourable and Learned M. J. Scott, the Minister of Energy, Telecommunications, and E-Commerce.

Minister Scott, you have the floor.

BERMUDA SATELLITE INSURANCE FORUM

Hon. Michael J. Scott: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, I rise before the House this morning to inform Honourable Members that on Wednesday, the 14th of July, the Ministry of Energy, Telecommunications, and E-Commerce facilitated a dialogue between representatives of the commercial satellite industry and space insurance and reinsurance companies here in Bermuda. Madam Deputy Speaker, Bermuda has sought to ensure that its telecommunications infrastructure was not only equipped to support a world-class business environment, but was vibrant enough to serve as an additional pillar to our service economy in its own right.

Space and the satellite industry have played a key role in that, I am proud to say that I have played the role of facilitator to the development of both these industries in Bermuda over the past few years.

Madam Deputy Speaker, our purpose in assembling Bermuda's minds that matter in the insurance and satellite sectors was pretty simple. Last year, I went to Paris as part of the international advocacy we offer to space companies domiciled in Bermuda. At that meeting of operators, financial institutions, and insurance companies, I asked one question: *What can Bermuda do for you?* I received the clear message that there was a gap to bridge in the space insurance market, one which Bermuda—with a foot in both the insurance and satellite camps—is well positioned to address.

Madam Deputy Speaker, Wednesday's meeting was a unique opportunity for Government-facilitated industry brainstorming to identify new business for the Bermuda insurance market and to tease out some of the constraints that both the space and insurance industries face as buyers and sellers, respectively.

Madam Deputy Speaker, we set out first to find out if there are some steps that Government can reasonably take to expand the range of Bermuda's insurance offerings that the space sector can enjoy. If Bermuda wants to host both industries, then we have to do all we can to make the environment attractive for both. The message we received was that, from a regulatory perspective, the Government, including my Ministry, the Ministry of Finance, and the BMA, are doing the right thing. In the main, no change is required.

Madam Deputy Speaker, we also tried to get out on the table some of the issues that may not be part of the regular exchanges between these two industries and to identify if there could be any new insurance solutions offered in Bermuda. In this, we hoped to benefit both the space and insurance sectors here and also to do something new, to create a specialist market that adds to the critical mass of space-

related industries that are coming together on our Island.

Madam Deputy Speaker, the conclusions of this successful meeting were varied. Some highlights include recommendations that the Government consider taking steps to facilitate the sharing of technical information between the space insurance and satellite industries—for example, by negotiating waivers to the United States' restrictions on the transfer of satellite technical information with defence applications, giving consideration to inviting a broad range of satellite companies to discuss their requirements with our insurance sector, and even assisting with the development of local technical expertise.

We will be considering possible next steps that will follow from all of these suggestions.

Madam Deputy Speaker, the meeting also developed specific recommendations for the insurance industry to consider, such as, separating launch insurance from the insurance of in-orbit operation; aggregating insurance coverage across whole satellite fleets or subsets of fleets; improving dialogue between experts in satellite operational matters and underwriters; and considering more flexible use of captives by satellite operators.

Madam Deputy Speaker, we have succeeded at insurance and reinsurance here in Bermuda, and we are succeeding, slowly but surely, at the space industry. Both industries are blooming in plain view, but not necessarily in sight of one another. In a small economy like ours, sometimes Government is the first to see linkages. In this regard, my Ministry's role is and should be to create a predictable and transparent environment where space-related business can flourish. Mostly, that means we have to get out of the way. Sometimes, though, it also means serving as a catalyst.

Where it is helpful for us to provide a forum for industry to incubate new ideas, we are doing so. It is a model that has worked around the world, just as it has here at home.

Thank you.

The Deputy Speaker: Thank you, Minister Scott.

Members, before I take the next Minister, I have to explain something to you.

Minister Butterfield had indicated to the House that she had a statement pending. Minister Butterfield has her statement, but we have not been supplied with copies. And I wish to seek your indulgence as to Minister Butterfield reading her statement and us receiving a copy later.

[Inaudible interjection]

The Deputy Speaker: They are all available. That is a matter of staff distribution. I am not going to hide it. The copies are here. The fact that they have not been given to you, I cannot fix right at this moment. I am seeking your indulgence for Minister Butterfield to read her statement, and we will then make copies and give them to you.

Some Hon. Members: Of course. It's the spirit of co-operation. Certainly.

The Deputy Speaker: Thank you. Thank you.

Minister Butterfield, you may continue. Could you inform us what the statement is about, please? Because I do not even have that.

Hon. D. Neletha I. Butterfield: Madam Deputy Speaker, I will be happy to inform you. It is all about emancipation.

The Deputy Speaker: Ah-ha!

Hon. D. Neletha I. Butterfield: Ah, free ourselves.

Shall I continue?

The Deputy Speaker: Please.

An Hon. Member: Beautiful word!

HONOURING BERMUDA'S EMANCIPATION EVENTS

Hon. D. Neletha I. Butterfield: Thank you, Madam Deputy Speaker.

I rise this morning to inform my honourable colleagues and the people of Bermuda about the emancipation events that have been planned by the Department of Community and Cultural Affairs for this year.

Madam Deputy Speaker, this year, the thematic focus is Honouring Bermuda's Emancipation: Recognition, Respect, and Reconciliation. It is important if we are to move forward together as a people that we give recognition to all aspects of our history, that we embrace and value the importance of respect in each other, and we find ways to reconcile with ourselves, each other, and our shared history.

Madam Deputy Speaker, in planning the events for this year, the Department of Community and Cultural Affairs worked in partnership with several entities including Heritage Productions, the Bermuda Friendly Societies, and Troika, a performance group that consists of some very talented young adults who will participate in an event planned for Sunday, 1st of August.

I wish to draw attention to the events that will take place in the days to come. I must acknowledge the Sixth Annual Emancipation Awards Luncheon that took place yesterday at the Bermuda Industrial Union.

The Deputy Speaker: Yes.

Hon. D. Neletha I. Butterfield: Heritage Productions organised this event to honour past Cup Match players and help people to understand the linkages between our most famous Cup Match classic and emancipation. Dr. Radell Tankard of the Ministry of Education has been most instrumental in founding and driving this initiative, and I am pleased that the Department of Community and Cultural Affairs has partnered with Dr. Tankard and Heritage Productions.

Madam Deputy Speaker, on Thursday the 22nd of July, there will be a dramatic presentation written by Joy Wilson Tucker, entitled, "Stairway to Freedom." This event will take place at the Manchester Unity Hall located on Union and Victoria Streets and begins at 7:00 PM. This is yet another example of the Department working in partnership with community organisations to inform and educate people about aspects of our shared cultural heritage.

Preceding this dramatic presentation, there will be a train tour departing from Barr's Bay Park at 6:00 PM. Persons on the train tour will be recipients of an informative and educational commentary about the North Hamilton area. The commentary will also draw attention to the historic significance of many of the businesses and buildings in the area. Information will be shared about the people who lived in this area and what they did to make it the hub of black business during an era when men and women of colour were restricted and limited.

Madam Deputy Speaker, Tuesday the 27th of July, the screening of the film "500 Years Later" will take place at Liberty Theatre beginning at 5:45 PM. This is a powerful, challenging, and compelling film that throws the spotlight on such issues as crime, poor education, poverty, self-hatred, the prison system, and broken homes—issues that plague people of African descent globally. The film asks, *Why?*

Madam Deputy Speaker, "500 Years Later" is a critically acclaimed, multi-award-winning, and timeless journey that is infused with the spirit and music of liberation. This film chronicles the struggle of a people who have fought and continue to fight for the most essential human right, self-determination. It will be immediately followed by a serious and meaningful discourse about issues raised in the film and how such have manifested in our local context. The moderator for this segment of the evening will be Dr. Radell Tankard, who will be joined by panellists Dr. Quito Swan, a Bermudian currently working as a Professor of History at Howard University; Dr. Llewellyn Simmons, Director of Academics in the Ministry of Education; and prominent lawyer, Ms. Victoria Pearman.

Madam Deputy Speaker, because of the linkages between our most popular holiday, Cup Match, and the emancipation of Bermuda's bound people, the Department of Community and Cultural Affairs has also decided to have a physical presence at the game, both days. Members of the public are encouraged to go by and visit the Department's Cup Match Heritage Tent, and possibly win some great prizes if they answer the history quizzes correctly. This is a first for the Department, and I am pleased that they are continuously striving to find new and creative ways to engage the public about aspects of our heritage.

Madam Deputy Speaker, on August the 1st, 1834, those enslaved persons of African descent were set free. On that most historic and significant day, our ancestors went to church to thank God for their freedom. In keeping with and honouring our forefathers engaged in this sacred act, a service of praise is planned for Sunday, the 1st of August, at Barr's Bay Park, beginning at 6:00 PM. The Salvation Army Divisional Band will provide music. There will be readings, interpretive dance, a dramatic procession by Troika, and an address by Mr. Colwyn Burchall, Jr.

Madam Deputy Speaker, the final emancipation event is the Dr. Kenneth E. Robinson/Cyril Packwood Memorial Lecture that will take place on Tuesday the 31st of August at 7:00 PM at the Bermuda Underwater Exploration Institute. The guest lecturer on this occasion will be Dr. Michael Gomez, who is a Professor of History at New York University, Director of the UNESCO Slave Project, and author of *Reversing Sail: A History of the African Diaspora.*

Madam Deputy Speaker, all of the events that I have outlined are free to the public. I encourage everyone to come out and participate in these culturally enriching and most informative events.

The Sankofa bird admonishes us that we must look into our past in order to move forward. Hence, the importance of these emancipation events designed not only to entertain, but also to inform, enlighten, and educate us.

Finally, I would like to publicly acknowledge the very hardworking staff of the Department of Community and Cultural Affairs who are responsible for organising the emancipation events, led by the head of the Department Mrs. Heather Whalen. The Officers Dr. Kim Dismont Robinson, Mr. Adrian Kawaley Lathan, Mrs. Louise Tannock, and Ms. Renee Thomas have all worked many long hours for many months preparing for these upcoming programmes. They have received tremendous support from the Emancipation Committee members, namely, Mrs. Valerie Dill, Mrs. Shirley Pearman, Mr. Craig Simmons, Ms. Nicole Stovell, Dr. Radell Tankard, and Mrs. Joy Wilson Tucker. All of these people, undaunted by tasks, have embraced the challenges with creativity, commitment, and fervour. Well done!

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Minister Butterfield, the Minister of Culture and Social Rehabilitation.

There being no further Ministerial Statements, we will move on.

REPORTS OF COMMITTEES

The Deputy Speaker: There are none.

QUESTION PERIOD

The Deputy Speaker: I have two for the Minister of Health and Social Services, and one for the Minister of Culture and Social Rehabilitation.

I recognise Mrs. Louise Jackson, the Representative for Pembroke South West, constituency 20.

Mrs. Jackson, you have the floor.

QUESTION NO. 1 ON HEALTH SERVICES FOR SENIORS

Mrs. Louise A. Jackson: Thank you, Madam Deputy Speaker.

My question to the Minister of Health is that he has stated that there are inconsistencies and disorganisation and lack of services within the health care system that they wish to address. And I am asking the question, Will the Minister address and correct the inconsistent regulations in Future Care, with some seniors paying $300 for benefits and others $600 for the same benefits, and also seniors who are not in the programme at all who are 66 through 69?

[Pause]

Hon. Walter H. Roban: Madam Deputy Speaker, may I provide an answer to the question?

The Deputy Speaker: Thank you, Minister. I was just looking at your statement. But you may continue.

Hon. Walter H. Roban: What the Member raises is not actually in my statement.

The Deputy Speaker: That was what I was concerned about.

Hon. Walter H. Roban: I think the Member perhaps misinterprets what my statement said. I can perhaps repeat what my statement said.

It did not say that. It said, "In the past, concerns have been raised around a number of issues," including that which the Member has mentioned. And I am referring to that, saying, since these matters have been the subject of continued discussion, my statement discusses them. But there is no admission of these issues being present.

The Deputy Speaker: Thank you, Minister.

Mrs. Jackson, your question should be based on the statement. Any other questions may, of course, be posed to the Minister in the normal manner prescribed.

You have a second question based on the statement?

Mrs. Louise A. Jackson: Yes, I do.

The Deputy Speaker: Please direct me to the area of the statement.

QUESTION NO. 2 ON HEALTH SERVICES FOR SENIORS

Mrs. Louise A. Jackson: I will start with, "In the past, concerns have been raised about a number of issues."

The Deputy Speaker: So wait a minute. So, page 1?

Mrs. Louise A. Jackson: Page 1.

The Deputy Speaker: Third paragraph.

Mrs. Louise A. Jackson: This is the third paragraph.

The Deputy Speaker: "In the past" . . . Yes. Continue.

Mrs. Louise A. Jackson: . . . "inconsistent application of standards of care"—this statement is saying that there is going to be a discussion. I am assuming that they intend to do something about this.

The Deputy Speaker: That is not what this statement says. It says, "Since these matters"—

Mrs. Louise A. Jackson: It says, "In the past, concerns have been raised about a number of issues, including"—

The Deputy Speaker: Right.

Mrs. Louise A. Jackson: —"inconsistent" the third one down—

The Deputy Speaker: Yes?

Mrs. Louise A. Jackson: —"application of standards of care."

The Deputy Speaker: Yes. And it ends, "Since these matters have been the subject of continued discussion, I would like to take a few minutes to address some of them this morning."

Mrs. Louise A. Jackson: My question is, as there is inconsistency in care, in elder care in residential facilities in Bermuda, will the Minister be adjusting, devising, updating the Residential Care Act so that we will not have inconsistent care?

The Deputy Speaker: The issues on elder care as identified by the Minister are on page 2 beginning at the third paragraph from the bottom, and continuing on to the next page.

Mrs. Louise A. Jackson: Then I will use that as my guide. Thank you very much in guiding me.

If the Minister will use that statement, which is, as the Deputy Speaker said—

The Deputy Speaker: It goes on to page 4.

Mrs. Louise A. Jackson: Would you please tell this country whether you intend to review and refine recommendations from previous reports, such as the Residential Care Report, updating, revising, rewriting?

The Deputy Speaker: That is not in the statement.

Mrs. Louise A. Jackson: "Previous reports" would be "recommendations from previous reports such as the Oughton Report, and others which have certainly spoken to residential care.

The Deputy Speaker: So where is that? Where is that, Mrs. Jackson?

Mrs. Louise A. Jackson: The reference to the Oughton Report?

The Deputy Speaker: Right.

Mrs. Louise A. Jackson: It is here, page 2, in the middle.

The Deputy Speaker: Right.

Mrs. Louise A. Jackson: "The two most recent have been the 1996 Health Care Review, the Oughton Report, and the Health Care Redesign Initiative, Arthur Andersen, the Report on the Strategic Planning Initiative between the Ministry of Health and Family Services and the Bermuda Hospitals Board."

The Deputy Speaker: And your question was?

Mrs. Louise A. Jackson: Whether the Minister intends to address this by rewriting, updating the present Residential Care Act, which is woefully antiquated?

The Deputy Speaker: Okay. It sounds like a question for another time because he has gone on to say what the elder care team has done, how they are doing it, their vision for the future, and outlining each of the points.

Now, Minister, if you wish to stretch it to answer the question? It seems to be implied here, but it seems to me to be a separate question.

Hon. Walter H. Roban: Thank you very much for your assistance, Madam Deputy Speaker. It is sort of a stretch to answer what the Honourable Member is asking, because the Residential Care Act is not a subject of this actual brief that I have presented today.

But, because I know that our Ministry is looking at all aspects of seniors care, health care, and it is being subject to rigorous review following in the tradition of the reports that I have mentioned, we will look at everything, and we are continuously looking at everything, as it relates to elder care and improving the care of our seniors.

The Deputy Speaker: Thank you, Minister Roban.

Mrs. Jackson, is there a supplementary?

SUPPLEMENTARY

Mrs. Louise A. Jackson: Yes. Thank you, Madam Deputy Speaker.

Will the Minister please advise us, if they are concerned about raising the standards of various parts of the health care system, if this also implies that they will be, at some point . . . As is mentioned here, there is limited family assistance. There is also a mention here of a lack of family support services. There is also mention of reliance on institutional services and institutions. If this—

The Deputy Speaker: To be correct, please read out that whole paragraph, because otherwise, Members of the listening public would not understand.

Mrs. Louise A. Jackson: All right. "There has been discussion"—

The Deputy Speaker: It starts with "In the past."

Mrs. Louise A. Jackson: "In the past, concerns have been raised about a number of issues," which, I can interject here, I am very pleased that the Minister is bringing this forward to the public. I am merely trying to ascertain how far this is going to go.

I will go back now to the statement, which is, "In the past, concerns have been raised about a number of issues, including changing demographics and ageing population, fragmentation of services, inconsistent application of standards of care, reliance on institutional services and institutions, inadequate long-term care facilities and services, inadequate community-based services, limited assistance for families, lack of family support services."

My question is on a general basis (I will not have to be specific on this). Will this Health Ministry be addressing the concerns? Because I have a question about why the Bermuda Health Council, enhancing the regulatory framework of health insurance, has

never been laid in this House. We have not seen it. The only way to have gotten it is off the Internet.

My question is, Why was this not laid in the House? And will any of these actually be addressed? Or is it window-dressing?

The Deputy Speaker: I am not clear on your question, but perhaps the Minister is.

Hon. Walter H. Roban: I hear the question, Madam Deputy Speaker, and thank you very much for your indulgences and your patience here. But the Honourable Member must know that this brief that I present today . . . the report from the Health Council is not a subject of this, so I cannot answer any question on which my statement is not a subject of.

But I will say, again, as it is clearly outlined, I believe, on page 7 going onward to page 8, by saying, "What have we done, and what are we doing?" Along with the elder care team, which I specifically talk about in the statement, I do outline what we have done and what we are doing, which I believe provides some general answer to the Member's question as to what we are doing.

But I cannot go any further because the Honourable Member's question is sort of general, to the point where it is not very clear.

Thank you very much.

The Deputy Speaker: Okay. Thank you, Minister.

The Chair recognises Dr. Grant Gibbons, the Representative for Paget East, constituency 22.

Dr. Gibbons, you have the floor.

QUESTION NO. 3 ON HEALTH SERVICES FOR SENIORS

Dr. the Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, this is for the Minister Mr. Roban, the Honourable Member. And I am going to start with the question on the first page, where the Member's statement says, "There are a number of critical questions that we must ask, and that includes, What is our vision for the Island's health system? How do we ensure a balance between disease prevention and health promotion? How do we move from a medical model to a more comprehensive, integrated approach and a full continuum of care and support services? and How should our services be organised?"

The question I have for the Minister is, When will the Minister be actually answering these questions in a comprehensive way? Can we expect detailed statements on this or some sort of a paper, Green Paper or White Paper, or something, to the House?

The Deputy Speaker: Thank you.

Minister Roban?

Hon. Walter H. Roban: As has been reported publicly and otherwise, we are in the process, this Government, with doing a National Health Strategy. And much of the questions will be answered when that strategy is completed. Numerous stakeholders are involved. And we expect that that report, when it is completed, will provide many of the answers to a lot of the questions, along with what I have already outlined in my statement as to our pursuit of dealing with these issues.

The Deputy Speaker: Thank you, Minister Roban.

Dr. Gibbons, is there another question?

SUPPLEMENTARY

Dr. the Hon. E. Grant Gibbons: Yes, it is a supplementary question to that one, if I may, Madam Deputy Speaker.

The Deputy Speaker: Yes. You may continue.

Dr. the Hon. E. Grant Gibbons: The supplementary is, When may we expect that health strategy to be made public or tabled in the House or made available to Honourable Members?

The Deputy Speaker: Thank you.

Minister Roban?

Hon. Walter H. Roban: When it is completed, Madam Deputy Speaker.

The Deputy Speaker: Thank you.

Dr. Gibbons?

Dr. the Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker. I assume that means the Honourable Member does not know when it will be completed?

The Deputy Speaker: Thank you.

Minister Roban?

Hon. Walter H. Roban: Something as important and intricate and detailed as our health system needs time to provide an adequate report on. And I certainly intend to inform the public, as well as this House, what those details will be when it is done.

The Deputy Speaker: Thank you.

Mr. Gibbons?

Dr. the Hon. E. Grant Gibbons: Yes, Madam Deputy Speaker. I have a second question.

The Deputy Speaker: Second question.

QUESTION NO. 4 ON HEALTH SERVICES FOR SENIORS

Dr. the Hon. E. Grant Gibbons: Yes.

And this actually relates to the issue of health care costs towards the bottom of page 2. Okay?

The Deputy Speaker: Yes.

Dr. the Hon. E. Grant Gibbons: The Honourable Member refers to it in the statement, but clearly the Health Council expressed serious concerns about the long-term viability of Future Care. The hospital study and the most recent budget exceeded the budget by some $15 million.

When will the Honourable Member—

The Deputy Speaker: You see that at the bottom of page 2?

Dr. the Hon. E. Grant Gibbons: Health care costs.

The Deputy Speaker: Yes.

Dr. the Hon. E. Grant Gibbons: My question, Madam Deputy Speaker, is, When will the Honourable Member be bringing a detailed information paper on controlling health care costs to the House, if he intends to do so?

The Deputy Speaker: I see.

Minister Roban?

Hon. Walter H. Roban: I am sure that our national strategy as it relates to health system will look at costs as well. And as I said, when that study is completed we will bring details as such to the House on addressing the costs in the long term.

The Deputy Speaker: Well, what you have said is that you are looking at reimbursements.

You focused on four areas, and one of them is reimbursement.

Hon. Walter H. Roban: Including the increase in premiums, that the insurance companies constantly inflict on the public of this country, will be addressed as well, thank you, Madam Deputy Speaker, with the issue of costs.

The Deputy Speaker: Thank you, Minister Roban.

Supplementary, Dr. Gibbons?

SUPPLEMENTARY

Dr. the Hon. E. Grant Gibbons: Supplementary, yes, Madam Deputy Speaker.

Is the Honourable Member aware that it is not insurance companies that provide the services? It is the service providers, physicians, those who provide pharmaceuticals and the rest of it.

The Deputy Speaker: Is that a question?

Hon. Walter H. Roban: Yes! And I am so glad, Madam Deputy Speaker—

The Deputy Speaker: "Is the Minister aware?" Thank you.

Minister Roban?

Hon. Walter H. Roban: Yes!

The Deputy Speaker: Thank you.

Dr. Gibbons, supplementary?

Dr. the Hon. E. Grant Gibbons: No, no, Madam Deputy Speaker. I am going to move on. I have a third question.

The Deputy Speaker: You have a third question. Okay.

QUESTION NO. 5 ON HEALTH SERVICES FOR SENIORS

Dr. the Hon. E. Grant Gibbons: Yes. I am on page 4, Madam Deputy Speaker, towards the bottom.

The Deputy Speaker: Page 4, yes, I have got you.

Dr. the Hon. E. Grant Gibbons: Reference to "parish rest homes." The statement reads, "Reviewed parish rest homes in conjunction with the Bermuda Fire Service, the Ministry of Works and Engineering; identified needs for facility improvement plans and established priorities for facility improvement."

The understanding is that the Pembroke Rest Home and a number of others are in serious need of rehabilitation. When will the Honourable Member be reporting on when that work will be done?

The Deputy Speaker: Thank you, Dr. Gibbons.

Minister Roban?

Hon. Walter H. Roban: It is not on page 4, Madam Deputy Speaker.

The Deputy Speaker: It is on page 4 of our copies, Minister.

Hon. Walter H. Roban: Oh. Really? Hmm. Perhaps my reading copy is slightly different. That is okay, though.

Madam Deputy Speaker, yes, it is unfortunate that when we came into power in 1998, we were left with a number of dilapidated rest homes that were not satisfactory. So the Government did have to, unfortu-

nately, close that because of that very case. And we did provide replacement with Sylvia Richardson and refurbishment of Lefroy. And as we go along, we intend to ensure that the landscape of availability of elder care in like facilities, as well as community care, which I outlined, will be vastly improved for all of our citizens for years to come.

The Deputy Speaker: Thank you, Minister Roban.

Dr. Gibbons, is there a supplementary?

SUPPLEMENTARIES

Dr. the Hon. E. Grant Gibbons: Yes, Madam Deputy Speaker.

The question I had asked was, When will the Honourable Member be informing us as to what they propose to do with the Pembroke Rest Home, which, I gather, is now closed, and others?

The Deputy Speaker: Minister Roban?

Hon. Walter H. Roban: Whatever we do around Pembroke Rest Home or other rest homes will be a part of a well-laid-out strategy consistent with what we have done with Sylvia Richardson, that we are doing with Lefroy. And when a report is ready, I will provide it to this House.

The Deputy Speaker: Thank you, Minister Roban.

Dr. Gibbons?

Dr. the Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker.

Could the Honourable Member tell us how many seniors are on the waiting list for these rest homes, including those that are actually not operating right now?

The Deputy Speaker: Minister Roban, could there be waiting lists for the homes that are not open?

Hon. Walter H. Roban: Well, that is not really a subject of my statement, Madam Deputy Speaker. But what I will do—

The Deputy Speaker: But it did follow from his previous question.

Hon. Walter H. Roban: Yes, yes. It is not specifically in my statement. But I will, in the goodness of Parliamentary cooperation, provide an answer (because it is a factual question) to the Honourable Member in due course.

The Deputy Speaker: Thank you, Minister.

Dr. Gibbons?

Thank you.

I have one question down for emancipation. And I recognise F. B. Charles Swan, the Representative for Southampton West Central, constituency 31.

Mr. Swan, you have the floor.

QUESTION ON EMANCIPATION PROGRAMMES

Mr. Charles F. B. Swan: Thank you, Madam Deputy Speaker, and good morning.

My question is to the Honourable Member. And the statement that she read this morning outlined quite a number of activities, one of which has already been held (yesterday), the awards luncheon, the Emancipation Awards Luncheon. And looking through them, there are some very interesting other ones, all in conjunction with the celebration of Emancipation Day coming up at the end of July.

My question is, Is there a policy within the Ministry for inviting Members of this side of the House to, or at least advising them of, some of these functions or all of these functions in advance? Cup Match is next week. The holidays are next week. And I assume this is the first that many people have heard of it.

But I just wondered if there was a policy for inviting Members of this side of the House to these events, these very important, illuminating, enlightening, and educational events? It has happened before, where we miss out on certain things. So I just wondered if the policy—if the Minister could enlighten us on it.

Thank you.

The Deputy Speaker: Thank you, Mr. Swan.

Minister Butterfield?

Hon. D. Neletha I. Butterfield: Madam Deputy Speaker, I would say that the policy was spoken today. The invitation is right here. So please attend.

Thank you.

The Deputy Speaker: Thank you, Minister.

Mr. Swan, is there a supplementary or another question?

Thank you.

That is the end of question period.

We move on.

CONGRATULATORY AND/OR OBITUARY SPEECHES

The Deputy Speaker: I recognise the Honourable D. Neletha Butterfield, the Representative for Pembroke West Central, constituency 18.

Minister Butterfield, you have the floor.

Hon. D. Neletha I. Butterfield: Yes. Thank you, Madam Deputy Speaker.

In June there were quite a bit of graduations, and somehow I received an email from the Southampton Seventh-Day Adventist Church GED Community Outreach Programme. And they have asked that I share this with the House of Assembly. But I have decided to send congratulations to the Southampton Seventh-Day Adventist Church to Mrs. Margaret Goulbourne for 10 young men who graduated on June the 26th with their GED high school equivalency diplomas. And I would like for congratulations to be sent to this Seventh-Day Adventist Southampton Church.

The Deputy Speaker: Yes.

Hon. D. Neletha I. Butterfield: I am sure, Madam Deputy Speaker, that you would like to be associated with these congratulatory remarks for the Heritage Productions, to which I did not see—

The Deputy Speaker: Indeed.

Hon. D. Neletha I. Butterfield: —the Shadow Minister for Community and Cultural Affairs.

But anyway, I would like to congratulate Wilbur Bullcat Pitcher from St. George's; Herman Butch Smith, Somerset; Gregory Brutus Foggo, St. George's; Willard Raynor, Somerset (there are no Somerset fans); Anthony Trott, St. George's; Gladwyn D. Trott, Somerset; Cleveland "Clevie" Foggo, St. George's; Reginald Tucker, Somerset; and the official awardee was Janet Pinkie Trott for her outstanding work when taking the scoring.

So I want to send congratulations to the Heritage Productions to all the names that I called out, and a special congratulations to Mr. Eugene "Buck" Woods, who told us that we must reach out to each and every young person that we can. They gave some very fine examples when they gave the testimonies about—I loved the one from Anthony Trott, who said that when he walked off of some other kind of shoes, one of the senior members said, *You cannot come on that field and play with me*

The Deputy Speaker: It was Mr. Wainwright.

Hon. D. Neletha I. Butterfield: Mr. Wainwright, Dennis Wainwright.

So they stood behind those young men, told them what to do. And also, Mr. Raynor, who said he had an attitude for three days, and he was taken in tow. And so that is what we have to have with our young people. They may not like some things. But they set the pace.

And also, one of the things that was said, that you stay to the wickets, and that is one, the former Minister Terry Lister used to say that in another place. So you know what that was like. You stay to the wickets; the runts will come.

Thank you, Madam Deputy Speaker.

[Inaudible interjections]

The Deputy Speaker: Thank you, Minister Butterfield.

The Chair recognises Mr. Kim Swan, the Opposition Leader and the Representative for St. George's West, constituency 2.

Mr. Swan, you have the floor.

Hon. Hubert (Kim) E. Swan: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, I would like a suitable letter sent to two young entrepreneurs. And I am sure you would want to be associated with that. It is going to Wendy and Joseph King, Jr.

The Deputy Speaker: Indeed.

Hon. Hubert (Kim) E. Swan: At JW Seasons, a new bed and bath establishment that was opened on Saturday in St. George's. It is a beautiful new business that was opened. And they did the right thing by opening it with their pastor present to bless the proceedings. I was very pleased to be invited to be a part of it.

I would like to be associated with the remarks by the Minister that sat down, with regard to the recognition luncheon that was held yesterday (that the Minister made reference to in her Ministerial Statement where she said "All are invited. This is the invitation.") That event took place yesterday.

I am certainly moved by, Madam Deputy Speaker, almost every one of the persons that were listed. I certainly am ageing myself, but am very much associated with them. My Uncle Reggie Tucker was honoured; Eugene Buck Woods actually coached us to junior country victory in Somerset Bridge Recreation Club. He was an outstanding cricketer in his day, not only for Somerset Cricket Club, but also internationally because he played professional cricket in Scotland. Willard Raynor, Anthony Trott—Clevie Foggo was once our president at St. George's Cricket Club. And who could forget Gregory Brutus Foggo, who has the distinction of now having three members of his family—three generations of his family as Cup Match captains for St. George's? He himself, his son-in-law, and his son, and now his grandson. And his uncle before was the president of the club, Mr. Andy Smith, and also a Cup Match opening batter who was selected as captain once, but had to decline that captaincy as some internal politics ruled the day.

But this is an outstanding prize-giving ceremony that recognises great contributions, not only to cricket, but in the community, as I can attest. All of these gentlemen have given back to their community in ways that are immeasurable, and we certainly need to recognise that they, and others in this community, through their success in sport, have also taken the time to give back.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Swan.

Does any other Honourable Member wish to speak?

Thank you. I am going to recognise Mr. Trevor Moniz, the Honourable and Learned Member from Smith's West, constituency 9.

Mr. Moniz, you have the floor.

Hon. Trevor G. Moniz: Thank you, thank you, Madam Deputy Speaker.

I rise to my feet today to ask that the House send a letter of condolence to the family of Allen David Thomas. Allen David Thomas was the husband of a Bermudian, Molly Godet. He died recently. He went from school into the advertising business in London. And he eventually rose to the heights of becoming the worldwide creative director for J. Walter Thompson. He fulfilled that job for almost 10 years. And when he retired, they retired to Bermuda.

He comes from a very artistic family. Molly herself was a graphic artist. She went very high up in the advertising world and was a director for publicists in London before returning to Bermuda. They have two children. I would like to send condolences not just to Molly, but to her son Charlie. Charlie is an artist and has had two pieces selected for exhibition in the National Gallery in the Biennial Exhibition. And their daughter Eve is working in the fashion world. A very successful, very artistic family. I know that they are very sad at the loss of Allen, who was a very creative individual. And I would like the House to send condolences.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Moniz.

Any other Member?

Okay. Since only Dr. Gibbons is standing, you have my attention and you have the floor, the Representative for Paget East, constituency 22, Dr. Grant Gibbons.

Dr. the Hon. E. Grant Gibbons: And I certainly thank you, Madam Deputy Speaker.

Madam Deputy Speaker, I rise this morning to ask that the House send congratulations to certainly an outstanding member of the community, who often will sit in the gallery up here. I think all Honourable Members know this gentleman. It is Mr. Raymond Russell, Sr., who, after quite a few years, has been successful in getting the Hamiltonian Hotel staff paid their appropriate pensions after quite a long battle.

And I think it is only appropriate. He has been certainly very perseverant about it and felt that justice needed to be done. And I think we ought to recognise him and congratulate him for that work on behalf of the Hamiltonian staff.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Dr. Gibbons.

Does any other Honourable Member wish to speak?

The Chair recognises the Honourable W. M. Lister, the Representative for Sandys South Central, constituency 34.

Mr. Lister, you have the floor.

Hon. Walter M. Lister: Thank you, Madam Deputy Speaker.

I rise this morning to say congratulations and happy birthday to a freedom fighter who set many examples clear around the world. I speak of no other than the Honourable Nelson Mandela, who celebrated his 92nd birthday yesterday in fine health. And we saw him on television all the way in Bermuda, Madam Deputy Speaker. And he set fine examples.

I would just like to say very briefly that on my trip to South Africa (and also present was the Deputy Leader Mrs. Cox) we had the opportunity to be entertained by Nelson Mandela at the Presidential Palace in Victoria.

Thank you for sending a message just recognising his 92nd birthday.

The Deputy Speaker: Thank you, Mr. Lister.

The Chair recognises Mr. T. E. Lister, the Representative for Sandys South, constituency 33.

Mr. Lister, you have the floor.

Hon. Terry E. Lister: Thank you, Madam Deputy Speaker.

I just want to make two comments today. First, I want to offer congratulations to Mr. Irving Ingham, Jr., the director and producer—

The Deputy Speaker: That has already been done.

Hon. Terry E. Lister: It was done when? Last week?

The Deputy Speaker: It was done on Friday by Minister Butterfield.

Hon. Terry E. Lister: Oh, I was there. Okay.

The Deputy Speaker: You can associate yourself.

Hon. Terry E. Lister: Let me associate myself with that. Thank you.

And secondly, on condolences, one of my constituents, I wanted to extend condolences to the family of Mr. Herbie Knights, a long-time employee of the Willowbank. He was in his late 70s. He worked there for years and years and years. I want to associate the Honourable Member Mr. Barritt and the Honourable Member Mrs. Pat Gordon-Pamplin.

And Mr. Knights will be missed. But he has had a long and successful life, and as I said, I want to extend my condolences to his family.

Thank you.

The Deputy Speaker: Thank you, Mr. Lister.

I recognise Mr. C. F. B. Swan, the Representative from Southampton West Central, constituency 31.

Mr. Swan, you have the floor.

Mr. Charles F. B. Swan: Thank you, Madam Deputy Speaker.

I have had the opportunity to attend three events this weekend. And these are basically all congratulatory, as I attended them as sort of acting Leader, and I am sure the Leader of this Party would like to be associated with these.

The first one on Saturday was the Open House of the Bermuda Cadet Corps. And what a treat! (Although it was a very hot day, and I think I caught a little sunstroke.) But I felt more for the about 48 young people who took part in a two-week camp. You know, their time just out of school, and took part in the camp and then had a passing-out and what-have-you parade on Saturday. The commandant Major Henry Campbell is to be commended, as are the officers of the Cadet Corps.

But to see some of these young people in a disciplined environment, thriving and really getting the most out of it for their own benefit was truly encouraging. And I could mention quite a few names, but I will not do that. I just would like to send congratulations to the entire group.

I also had the opportunity to attend a service that is held around the world. Bermuda being an island at one time would have hosted ships and sailors, as we still do, that bring us all the goods that we see on our shelves or purchase for our personal consumption or use, almost 90 per cent of them have arrived here by ship. And this service commemorated those men and women who form crews and officers aboard ships that ply the world's oceans, and we will see someday. And I would just like to say congratulations to that group. The speaker was Reverend Matthews, and he happened to have worked in a Missions to Seamen outlet in Africa for a number of years and was able to share some of the stories that these crews and sometimes skippers endure while plying our seas.

And anyway, I just wanted to send congratulations to them.

And also to Robinson's Marina. It was not in the paper today, and I am not sure if it is the right thing for the paper. But they have a fishing tournament every year, and this is the seventh year it has been held. And there was a record turnout. It is really one of the better community events one could go to. The boats go out and fish, and then much of the catch that they bring back is fried up right there on the dock. And the community is involved, not just invited, but welcomed to partake.

And this year was very well attended, a good crowd, good music, good fellowship. So I wanted to send congratulations to them.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Swan.

Does any other Honourable Member wish to speak to the congratulatory and/or obituary announcements?

If not, let me associate myself with the remarks about the Cadet camp. I regret that I no longer receive an invitation to this very inspiring and uplifting event.

And I also wish to send belated birthday congratulations to my aunt, who went 96 on Saturday and remains in good health, Myrtle Edness. And I associate Members from both sides who know her.

Thank you.

MATTERS OF PRIVILEGE

The Deputy Speaker: There are none.

PERSONAL EXPLANATIONS

The Deputy Speaker: There are none.

NOTICE OF MOTIONS FOR ADJOURNMENT OF THE HOUSE ON MATTERS OF URGENT PUBLIC IMPORTANCE

The Deputy Speaker: No?

INTRODUCTION OF BILLS

The Deputy Speaker: There are none.

NOTICES OF MOTIONS

The Deputy Speaker: There are none.

ORDERS OF THE DAY

The Deputy Speaker: We are now on Orders of the Day, and I have an announcement to make. Members may have noticed the omission of the Municipalities Act on the Orders Paper. That was an oversight, probably due to the fact of the . . . it did not come at its normal time; it came later in the day. So let me tell you that the Order Paper will be revised to include that omission.

So we now move on to Orders of the Day.

Second reading of the Public Access to Information Act 2010?

Dr. the Hon. Ewart Frederick Brown: Carried over.

The Deputy Speaker: Carried over.

The second reading of the Media Council Act?

An Hon. Member: Carried over.

The Deputy Speaker: Carried over or. You are not going to withdraw it?

[Inaudible interjection]

The Deputy Speaker: Okay. Carried over.

The consideration of draft regulations entitled the National Pension Scheme (Financial Hardship) Regulations, 2010, under the name of the Minister of Finance, the Honourable and Learned Member, Deputy Premier Paula A. Cox.

Minister Cox, you are proceeding with this?

Hon. Paula A. Cox: I am, Madam Deputy Speaker.

The Deputy Speaker: Continue.

DRAFT REGULATIONS NATIONAL PENSION SCHEME (FINANCIAL HARDSHIP) REGULATIONS 2010

Hon. Paula A. Cox: Thank you.

Madam Deputy Speaker, I move that consideration be given to draft regulations entitled the National Pension Scheme (Financial Hardship) Regulations, proposed to be made by the Minister responsible for Finance under the provision of sections 24 and 69 of the National Pension Scheme (Occupational Pensions) Act ,1998.

Madam Deputy Speaker, I am certainly very pleased to present the National Pension Scheme (Financial Hardship) Regulations for the consideration of Honourable Members. I think, certainly, Madam Deputy Speaker, Honourable Members should be aware that the National Pension Scheme (Occupational Pensions) Act, 1998, provides for the establishment, administration, and regulation of private occupational plans for Bermudians. This Act became operational on the 1st of January 2000, and the regulations were introduced in 1999 and 2000 to provide for such matters as registration of plans, plans for self-employed persons, and pension fund investments.

Honourable Members will certainly recall that, in the 2010–2011 national budget, Government made an amendment to the National Pension Scheme (Occupational Pensions) Amendment Act, 1998, to help Bermudians with the real need to get access to a portion of private-sector pension funds, based on prescribed criteria for hardship.

Now, before going into the specifics of the regulations, I certainly would like to provide Honourable Members with information relating to the current status of the occupational pension plans in Bermuda. According to statistics provided by the Pension Commission, we have an estimated 22,589 plan members. The number of plans is 2,949. Of these, 2,927 are defined contribution, and 22 are defined benefit. And there are approximately $1.25 billion of assets in the plan as at 31st December 2009. Four-hundred and thirty-nine are self-employed plans, and six have approved third-party plan administrators. There are 11 financial institution pension plans registered containing approximately 95 per cent of all plan members.

Madam Deputy Speaker, the Labour Force Survey conducted by the Department of Statistics in May 2009 produced some sobering facts about unemployment conditions in Bermuda during the recession. Unemployment was pegged at 4.5 per cent, and there were data to show that many workers had been unemployed for over a year.

Now, the financial stress and strain placed on the shoulders of long-term unemployed persons can be unbearable. Such persons are put at risk of losing their homes, not being able to receive necessary medical treatment; and some others have had to suspend college and university education for their children.

In search for a solution, Madam Deputy Speaker, some unemployed persons have approached both the Ministry of Finance and the Pension Commission seeking relief through access to their private sector pension funds. Now, while they appreciate that the fund is for their retirement years, they have certainly asked for some help more immediately.

We have consulted with the Pension Commission and had requested that they do some research and make recommendations on whether the decision that the Ministry was prepared to take, that I was supportive of, of giving access—whether that could be defensible. And certainly, Madam Deputy Speaker, Members should be aware that the National Pension Scheme (Occupational Pensions) Act and regulations generally require accumulated pension contributions and related earnings and accrued benefits to be locked in and unable to be withdrawn during an employee's working life. Clearly, the rationale behind this is to deter plan members' using their pension funds as an easy-to-access source of income for purchasing consumer goods and services.

The primary focus of the legislation was to provide an enabling framework in order to provide prospective pensioners with the ability to accumulate the maximum amount of pension benefits at retirement in order to support their standard of life.

Similarly, at retirement, a plan member may not receive their accumulated benefits in a single lump-sum payment and are normally required to receive the value of their pension funds or accrued benefits each month of the remaining years of their life. Now, currently, the Act does permit the following

refunds or withdrawals at termination of employment or retirement:

1. Contributions and related earnings/accrued benefits earned in pension plans in respect of employment prior to 1 January 2000;
2. Small pensions (and this is defined as 5 per cent of the average annual employment income;
3. It provides for voluntary member contributions;
4. It provides for non-vested member contributions;
5. It provides for a transfer required by a court order under a property settlement agreement relating to the transfer of assets on a divorce, or to an order or settlement agreement for the maintenance of a spouse;
6. In circumstances where a member or former member has a mental or physical disability which is likely to reduce considerably their life expectancy; and
7. In instances where the pension plan provides for the refund and the employer has assumed responsibility for the funding of all pension benefits associated with the contributions.

Of the examples cited, Madam Deputy Speaker, the one that most closely comes to the hardship withdrawal is that which is related to allowing a refund or withdrawal where the mental capacity or physical disability is required and can be paid by way of a refund. That is the only one.

Certainly, Madam Deputy Speaker, the Commission's research indicates that a number of jurisdictions do permit hardship withdrawals. And this is sometimes referred to as "special access." And in terms of, just for context for Members, and to assist, as an overview of both the US and Canadian approaches, they are as follows:

With the US, with the 401(k) plans, they are occupational plans established by employers in the US as retirement vehicles for their respective employees. Now, they do permit withdrawals in a limited number of hardship situations. For instance:

- for un-reimbursed medical expenses for the employee, their spouse, or dependents;
- for the purchase of an employee's principal residence;
- for the payment of college tuition and related educational costs for the employee, their spouse, dependents, or children who are no longer dependent;
- for payments necessary to prevent eviction of the employee from their home or foreclosure on the mortgage of the employee's principal residence;
- They also permit withdrawal in terms of, for funeral expenses;
- and for certain expenses for the repair of damage to the employee's principal residence; and also
- if the employee becomes totally disabled.

Now, this is the US special access. Now, for them, in order to discourage these early hardship withdrawals, in almost all cases the IRS imposes significant financial penalties. And so, such withdrawals usually are made by either requiring an employee to provide financial proof of their financial need or via self-certification, which does not require an employee to disclose their finances. Now, once the money is removed using a hardship withdrawal, it cannot be put back and the tax advantages on these funds are lost for life. That is the US example.

In Ontario, Canada, they take a little different approach, but still fairly close. They allow special access to a member's locked-in retirement plan under the following considerations:

- The member has an illness or physical disability that is likely to shorten their life expectancy;
- The member is at least 55 years old, and the total value of the funds in their account is less than the specified amount. And 2009, it was $18,520.
- And they also allow a special access if the member is facing specific types of financial hardship.

For financial hardship, a member cannot apply to withdraw money for a category of financial hardship for which they have already successfully applied within the prior 12 months. And the types of financial hardship are as follows:

- where there is risk of eviction from the member's home by either the member or their spouse due to unpaid rent or mortgage;
- or in order to make a rental deposit for the first and last month;
- for uncovered certified medical expenses such as prescription drugs, medical devices that are incurred by the member, their spouse, or their dependent; and also
- residential renovations, alterations, or construction confirmed as necessary by a doctor to accommodate a member's illness or physical disability.

Completed application forms for such access must be submitted to the Financial Services Commission of Ontario, and they are the pension regulator in that province. And, certainly, the pension regulations require an applicant to use some of their assets to deal with their financial situation. The law requires that the value of certain of the applicant's assets be deducted from the amount of money that is being ap-

plied to be withdrawn. There is also an administration fee payable for such applications.

Now, Madam Deputy Speaker, having looked at, I suppose, the personal aspect of people who have a need and have come to the Government to help satisfy that need, and also looking at the information and other jurisdictions, we have opted to introduce an amendment to the National Pension Scheme Act to provide for a partial withdrawal of accrued benefits on the basis of financial hardship.

Now, certainly, Madam Deputy Speaker, we found the rationale compelling, and certainly the Honourable Parliament in its wisdom also seemed to support this when we came to you in the budget session and we amended section 24 of the Act. And that was to really provide the enabling legislative framework for the regulations that we are here to discuss today.

I announced at that time, during the budget session, that the circumstances of financial hardship and the application process would be prescribed by the regulations and that they would be tabled in the Honourable House during this session. The idea in terms of the time lag was to certainly allow the Pension Commission and the plan administrators to do the necessary preparatory work. But I certainly spent and went through in exhaustive detail during the debate what we were contemplating so Members were not agreeing to something that they did not have a sense of the natural scope of it.

So, Honourable Members will recall that during the budget session, I outlined the three circumstances of financial hardship that would permit and authorise refunds to be paid under the Act. And they were (1) eligible uncovered medical expense; (2) threat of loss of principal residence due to debt default; (3) eligible fee payable for education.

Madam Deputy Speaker, Honourable Members should note that the proposed circumstances under which a plan member can apply for financial hardship under the Bermuda National Occupational Pension Scheme are far more limited than the scope permitted in the jurisdictions I referred to earlier.

Bermuda is one of the few jurisdictions in which the provision of occupational pension plans is mandatory. So, when persons currently unemployed re-enter the work force, they will have the opportunity to replenish their retirement benefits, and it should also be noted that members can make voluntary contributions to their pension plans.

Madam Deputy Speaker, these regulations have certainly incorporated the policy objectives that I indicated to the House during the budget session, and the specifics of the prescribed regulations are as follows:

Members know that we have the regulations before them. Regulation 1 is self-explanatory and provides for the citation of the regulations.

Regulation 2 defines a number of terms used in the regulations, including the terms “account,” “applicant,” “application,” “application date,” “dependent,” and “third party.”

Regulation 3 sets out the circumstances of financial hardship for which a person can apply for a refund under the Act. And the regulations also require that an applicant states that he has no other reasonable way of raising money to pay for the expenses or arrears.

Regulation 4 provides for applications to be made for eligible medical expenses for the applicant or a dependent or parent of the applicant. It also sets out the definitions of eligible medical expenses and provides for the documentation to be included with the application.

Regulation 5 provides for an application to be made where there is to be imminent loss of a principal residence due to arrears in debt secured on the residence. It also sets out the definition of “principal residence” and provides for the documentation to be included with the application. It also sets out the amount that the Commission can approve for payment.

Regulation 6 provides for applications to be made for eligible educational expenses. It also sets out the definition of eligible educational expenses and provides for the documentation to be included with the application.

Regulation 7 sets out the minimum amount that can be applied for. And that is $1,000.

Regulation 8 sets out the maximum refund that the Commission can approve per application, which is 20 per cent of the account balance, or commuted value of the pension. It also requires pension administrators to provide persons with account balances on a timely basis.

Regulation 9 sets out the permitted number of applications that the Commission can approve during the lifetime of an applicant and within a five-year period. It also sets a limit of two applications during a person’s lifetime.

Regulation 10 sets out the procedures for making financial hardship applications under the Act.

Regulation 11 provides for the application fee to be made for an application. This is set at $100.

Regulation 12 requires applicants to supply any additional information that the Commission may need to support the application.

Regulation 13 requires the Commission to consider completed applications, make a decision, and notify applicants of the decision. It also requires the Commission to give applicants reasons for rejecting an application. And it requires the Commission to notify plan administrators if an application is approved, and directs them to make the payment.

Regulation 14 requires plan administrators to make payments within a certain timeframe if the application is approved by the Commission.

Regulation 15 requires the Commission to keep a copy of each application, and also to keep certain information relating to the application.

Madam Deputy Speaker, these regulations provide various checks and balances to ensure plan members do not abuse this proposal or apply to withdraw the majority of their pension benefit accrual. All refunds under the proposed regulations will have to be approved by the Pension Commission, and the Pension Commission will ensure that all applications meet the conditions set out in the regulations.

In addition, all approved payments must be paid directly to the third party provider of the goods or services, and not to the member.

Madam Deputy Speaker, there are also restrictions on the amounts that members can withdraw with each successful application, and also a maximum number of applications that a person can make in their lifetime. As stated, the maximum refund is 20 per cent of the account balance on the application date. And a person will only be allowed to make one application in each five-year period, and will be limited to two successful applications in their lifetime.

Certainly, Madam Deputy Speaker, we worked with the Pension Commission, and the regulations were sent also to pension plan administrators. And we feel that this proposal is sensible. It strikes the right balance between allowing pension plan members access to their private sector pension funds under extreme hardship conditions. But it also provides them some protection in ensuring that plan members receive a decent pension when retiring.

And, unlike the US example, there is also the opportunity to make good on any withdrawals. And members, when things turn the tide for them financially, are able to put more back into their pension, should they be in a position to do so.

That is the substance of the regulations, Madam Deputy Speaker. And, while we debated them and discussed the amendment to the Act in the budget session, and I outlined what was going to be in the regulations, we have now come to the time where we have the regulations for Members' consideration.

Thank you very much.

The Deputy Speaker: Thank you, Minister Cox.

Does any other Honourable Member wish to speak to the draft regulations entitled the National Pension Scheme (Financial Hardship) Regulations 2010?

I recognise Mr. E. T. Bob Richards, the Representative for Devonshire East, constituency 11.

Mr. Richards, you have the floor.

Mr. Everard T. (Bob) Richards: Thank you, Madam Deputy Speaker.

I recall that we took this up earlier in the year, and I think we were all pretty much in agreement that it was very important that strict restrictions be put on people's ability to dip into these pension funds.

I think Members will be aware that, you know, in Bermuda we have the social insurance, if you like, which is a sort of foundation pension plan for Bermudians, even though it is recognised from the beginning that it would not be sufficient to provide a standard of living for people once they retire. And that was the reason that these occupational pensions were put in place.

So, we in Bermuda have not really had a long history of providing pensions for people. There were various ways, traditionally, of providing for senior citizens once they are retired. But in the modern age, most of those methods have become impractical or so selective that they would not have any kind of broad acceptance. So, we have had to put these pension systems in place.

Unfortunately, in the last decade, the return on these pensions—most of these pension plans are defined contribution plans. I think most people will look at the return they have gotten on their pension plans in the last 10 years and be very disappointed because returns on pensions and returns on investments for the decade, the first decade of the millennium, have been very poor. Let us hope that from 2010 to the next decade will get better results.

But, having said all that, I was satisfied in the spring, in the budget session, that the Government had addressed the concerns that we had on this side about putting restrictions on people's ability to tap into this reserve. You know, it is one of those things that, if you think you have hard times now, you might have even harder times once you stop working. But, at the same time, one wanted to have a balance. Particularly in the current economic climate where many people are out of work, it would be a shame for people to lose their houses, and, more particularly, to not get proper healthcare because they were unemployed, but they had this pool of assets that they would not get the proper medical service because they did not have the money.

So, not only do we approve the principle, but having looked through the regulations, I have to say that the regulations bear out the outline that the Minister gave us in the spring. So it all seems to be quite consistent with what we heard then. And we approved of it then.

I only have one question for the Minister. She kind of answered it already, but if there is any more information on it, I would be grateful. And that is that there is an ability . . . once you take out your money, you know, if you have a situation where the hard times are temporary (let us hope that everybody's hard time is temporary), that when things return to normal, you have the ability to top it back up. I think that is an important feature. I just wondered. There was no mention in this paperwork about how the Commission oversees that. There are lots of requirements to regulate how people take the money out. But are there any requirements on how they top it back up? And I would like if we could have some clarification on that particular score.

But otherwise, I do not have any problems with this, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Richards.

Does any other Honourable Member wish to speak to the second reading of draft regulations entitled the National Pension Scheme (Financial Hardship) Regulations, 2010?

I recognise the Honourable T. E. Lister, Representative of Sandys South, constituency 33.

Mr. Lister, you have the floor.

Hon. Terry E. Lister: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, what we are seeing here today is a response to need. That is the job of the Government—to look at what goes on in the community, to see what pressures people are under, and to find other ways to help them. So this is certainly that. It is a wise decision.

When one first hears of changes to the pension plan and making it possible to get money out, there is a little shudder says, *Oh, my gracious. That is not what you want!* But when you have the chance to think about it and think clearly about what happens if you do not help, then one realises that this really is the thing to do. And so we have a wise decision today.

Bermudians have for many, many years been asset-rich and cash-poor. The last speaker mentioned the possibility of people losing their homes in times like these, and that certainly is something one would want to see avoided. It is very easy for Bermudians to be owning a house that is worth $1 million or $1.5 million and owing, not a large sum of money on it, but if they cannot pay it, they simply cannot pay it. And so this moves to adjust that.

Madam Deputy Speaker, I just want to remind us of why we have this pension scheme in the first place. Many Bermudians had not made proper pension arrangements on a personal level in the past. And many were relying on the social insurance, which was always designed to be sort of a stop-gap. When the national pension scheme was put in place in 1998, it was really designed to ensure that those persons who were not in a company scheme already—their company did not have something of that nature—they would have a chance to prepare themselves for better retirement.

I can remember when I was still in my previous career, near the end of my time I had at one stage three very prominent black businessmen who all came to me and became my clients. And the principal role of the relationship was to help them sell their businesses. All were in their 70s at that point; all had run their businesses for well over 30 years—well recognised in the community, well respected, and without pensions. They had no opportunity for a pension. And they were still there running those businesses in their 70s because the minute they shut the doors, they had no income. And so they kept the doors open.

And so whilst people would have looked at them and said, *There is Mr. So-and-so. He is still running that great business, and I am proud of him, and I look up to him, and I would like to be like him,* he did not really want to be him at that point. He wanted to be home. He wanted to be retired. But he had no avenue. This national pension scheme provides the avenue.

Madam Deputy Speaker, this scheme, working properly—and I have no reason to believe it does not—makes it possible for all of us to retire and retire comfortably. Now, that does not mean that everyone is going to be a millionaire. But the way it is drawn down, with the 5 per cent each and every pay-check, should ensure that by the time we get ready to retire, the amount that can be paid out to us should be a pretty high percentage of our weekly or monthly wage. That will mean a certain amount of adjustment on the part of the retiree, but he or she will still be able to live at a good standard.

And so, resultantly, this is a good scheme. When you come around now and say, *Well, let us adjust it in some way,* you ensure that it will provide what you need done for today, but also ensure that tomorrow there will be no backlash from it.

The plan that we are approving today, amongst other things, has been widely circulated. Often, we hear the Opposition and others complaining or noting that the measure brought has not been taken everywhere. This has. And everyone has had a chance to look at it, think about it, and contribute. And that only makes it a better plan for the contributions that each could make.

Madam Deputy Speaker, the fact that the money can come out of the plan only for restricted reasons really ensures that this money does not come out for a good cruise. You know us; Bermudians love to cruise. I am sure that not many ships sail in the ocean right now without a Bermudian on it. Oh, yes, recession or not, we like to cruise. So we have to make sure that that is not what it is for, but instead it is really for a hardship. And the way it has been designed today ensures that that is the case.

Only twice can someone go in and take the money out. But while we say *only twice,* we could also say *more than once,* meaning, should someone on a personal level find themselves in a bad way in a good economy, they have the ability to go back again. So those people who may take advantage of this in 2010 and 2011 may on a personal basis have a difficulty in 2015 while the economy is going great. But they can still go back in 2015 and have another bite at the cherry, so to speak.

The last speaker talked about the ability to put back. I should mention that, for people who find themselves with their social insurance payments not having been made by their employer, they have the right to

top it up themselves. Now, you can grumble and say, *He took my money. He should have paid his share. Now I am behind, and you want me to pay it myself.* Well, it is your pension. It is your retirement. So people have the ability to do that on that stage. And certainly on this stage, the law requires that there be 5 per cent deduction by each party.

But there is no . . . (How do I want to put this?) There is nothing to stop anyone from putting anything more in if they wanted to. If you came across a payout, a bonus or something on your job and you said, *You know what? I have already cruised this year. I do not need a second cruise. I will put the money into the National Pension Scheme.* There is nothing to stop that. So rather than getting the $5,000 or $10,000 or whatever-thousand-dollars bonus you get today, you put it in there at age 45, and 20 years later it comes out and it is worth certainly a lot, lot more than it was on the day you took it.

[Inaudible interjection]

Hon. Terry E. Lister: Well, yes, you hope.

I have great confidence in the financial money managers in this country, especially my cousin across the way. So I know he will do a good job of handling these funds, surely he has some of these funds, Madam Deputy Speaker. So resultantly, I am going to wrap up simply by saying I support this measure 100 per cent, and I think it is really in the best interests of all Bermudians.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Lister.

I recognise Dr. E. Grant Gibbons, the Representative for Paget East, constituency 22.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, I think we on this side, as my honourable colleague Mr. Richards said, are generally in agreement. But I think we have some questions and some concerns.

I appreciate that the Minister, the Honourable Paula Cox, when she introduced this, talked a little bit about the sort of current state of play because the Honourable Member was trying to put this into context. And, indeed, the Honourable Member said that there are some, I think, 22,000 individual plans out there at the present time managed by something over 2,900 different group plans and then managed by a number of service providers underneath. And I would just like to say that I am involved with one of the service providers. So I just wanted to make sure that was clear up front here.

The interesting thing about it is that if you take $1.2 billion, which apparently is the number the Pension Commission has, as the total amount of assets that are held in these pension plans, and divide that by the 22,000 individual members' plans, what you end up with is—and this is important—on average you end up with $54,000–$55,000 in each of these plans.

Now, the interesting thing is that when the United Bermuda Party brought the original legislation into place in 1998, that was the National Pension Scheme in 1998 (and I remember it quite well because I was the Minister of Finance at the time), there had been quite a bit of work done before that to sort of try and get an understanding of, you know, What is the goal here? What are we really trying to achieve? Because I think everybody understood at the time that the contributory pension plan, sometimes known as social insurance, was simply an aid, some additional help to people who, you know, needed it. But it was not meant to be the whole pension for most people. There were a lot of private schemes at the time, and there were a lot of people, as we all know, who had no scheme whatsoever. So when they actually retired, if they had not got significant savings or if they had not got assistance from family or others, they were going to be in a great deal of difficulty.

But one of the goals at the time when this scheme went into place, at least legislatively—it did not come into operation until a couple of years later. But when it was put in place the goal was to have, when somebody retired, something on the order of sufficient assets to allow them a pension on an annual basis that reflected something like 60 to 70 per cent of their final salary, 60 to 70 per cent of their final salary when they retired.

Now, the interesting question here is, if you go back to that number that I calculated, taking $1.2 billion and dividing that by 22,000 and ending up with $55,000 as the average asset in each of these individual plans, most of us will very quickly realise that that probably, for I guess your better-paid-than-most, but not exempt company executive, is roughly a year's worth of salary. So the interesting question here, Madam Deputy Speaker—and I think this is trying to put the whole thing in context—is, what I would have really liked to have heard from the Minister of Finance, and I think I would, again, suggest it because I have mentioned this before. I think it is time, now that we are 10 years out on the National Pension Scheme, to have a much clearer understanding of what kind of shape each of these individual plans is in.

Now, I do not think we want a report of 22,000 plans. But I do think we need the Pension Commission, if it does not have this data already or has not commissioned it, to sort of get an actuarial study to say, *Here is roughly where we are in terms of that goal of having sufficient assets in each of these plans when someone retires to reflect 60 to 70 per cent benefit of their final salary.* And I think that is a very important study because, clearly, this was a very important scheme when it was put in. We all recognise the demographics, that more of us are getting older

and there are going to be more seniors. It is basically doubling in the next 20 years.

We need to have a much clearer understanding as to what the health is of a lot of these individual plans. And I do not mean necessarily looking at each one; but I do mean on an actuarial basis, we need to understand that in this House. And the country needs to understand it as well, because it may be after 10 years that the contributions need to be higher. Maybe individuals and also businesses need to be putting in not 10 per cent collectively, but maybe it is 12 per cent. We have gone through that exercise up here in the House with the scheme for Ministers and Members.

The other point I think which is absolutely on the money, as the Honourable Member, Mr. Richards, pointed out, was that we have had, I would say, a financial meltdown in the financial markets in the last couple of years. A lot of these schemes are invested in equities and other products that effectively reflected some of that downturn. There has been a little bit of an up-tick as well, but I think that makes it even more important, now that we are 10 years out, to sort of do, what I will call, a state of health of this National Pension Scheme.

I am surprised and I am a little bit worried that the Honourable Member who speaks for Finance did not come today with a clear understanding of where we stand before coming back and saying, *Look. We need to allow this hardship provision to enable people who are, shall we say, in desperate financial circumstances to be able to dip into their pension scheme.* And I understand some of the constraints here, some of the checks and balances. But, nevertheless, I think it is really important, if we honestly believe that this scheme is going to be able to carry the weight down the road for most of us—and particularly for those coming along in their 20s and 30s now—we need to understand where we are in that context.

And I think I would say we are putting the cart before the horse a little bit, not having done this today, particularly given what the market has seen over the last few years.

Now, I have a couple of other concerns here. As I said, we on this side, you know, generally support this. But we have some concerns. The Honourable Member did put in context what the US experience is, which reflects the ability of the US pension contributors to dip into their schemes, and the Canadian one as well. And I think that was important and useful. But I think we need a lot more detail to put it in context in Bermuda.

One of the concerns I also have is—and I think this is important as well—if we have 22,000 individual plans out there, individual individuals who have been contributing, I wonder to what degree a certain portion of those are going to come back and make an application under this set of regulations to the Pension Commission, look to see if they can actually withdraw money from their scheme for the three reasons that have been stated, which is medical, educational, or related to losing a house.

Because if you even take 10 per cent of those, and I think Bermudians . . . I can remember the attitude a number of years ago when we were looking at this. Most Bermudians, particularly if you are in your 20s, figure you are bullet-proof. You are Teflon-coated. You do not need a pension. You will deal with it down the road. You would rather have the money now. So I think there is a certain sensibility out there, particularly for younger working members of the community, that, you know, *Look. Retirement is a long way away. I am really not going to need that, or I have got plenty of time to build that up.*

But the question I have is, if you have, say, 10 per cent of the 22,000 coming back, that means that the Commission is going to be looking at something on the order of 2,000 applications. I am just picking 10 per cent out of the air; it could be 5 per cent, it could be 15 per cent. Depends on what kind of shape people feel that they are in.

That is a lot of applications. And one of the questions I would put to the Minister is—and I am sure the Pension Commission, Mr. Sousa and others, have probably thought this through. But do they have sufficient resources to be able—with all the other stuff that they have to do with delinquent employers and others—to adequately look at these applications and make sure that they are protecting the individuals who are trying to take the money out, that there has been sufficient due diligence done to ensure that these applications are not, as it were, fanciful, or in some cases where there may be other sources of income or there may be other ways they can go, apart from digging into, obviously, this nest egg, which is going to be extremely important for these individuals down the road?

One of the questions I have is—and I hope the Honourable Member can tell me—Are there sufficient resources? Will diligence be done to sort of look at these individual plans? Someone comes in. They say, *Look. I have got some medical issues here. I do not have sufficient discretionary cash right now to be able to deal with it. I am laid off,* or whatever else. Will there be even some counselling by the Pension Commission saying, *Look. You have got $50,000 in there right now. You are able to take a maximum of $10,000 out. Do you really want to do that? Would you be better off, you know, taking out a loan of some sort? Are there other ways you can do this? Do you recognise what that withdrawal from that account is going to do to you down the road in 10 years or 15 years when you actually have to depend on this money for your pension?*

I think there needs to be some, I would say almost counselling, provision in there so people understand exactly what it is they are doing.

Now, this is boring stuff, and I know people will roll their eyes. But I think it is going to be very important. And it is particularly important when you consider the amount of time in this House, Madam Deputy Speaker, we have spent debating the contributory pension fund and the need to continue to increase the contributions, which obviously takes money out of what could go into the National Pension Scheme. So it is a diversion in many respects. And I think we want to make sure that 10–15 years down the road we are not having to increase dramatically the contributions to pay for social insurance when, really, people should be putting more money into their occupational national pension schemes here.

So those are a couple of issues that I have. And as I have said before in this House, I think there is a clear connection between the contribution pension fund, social insurance, and these national pension schemes. And we ought to be moving more and more away from a dependence on social insurance and more and more towards these occupational schemes.

Those are my broad comments, Madam Deputy Speaker. But because we are not going to be able to go into Committee, I have a couple of specific questions for the Honourable Member, which I would otherwise normally do in Committee.

I am actually on page 3, on clause 4 of this. And it says here, "An application" this would be clause 3(3). It says, "An application may be made to cover two or more of the circumstances mentioned in paragraph (1)," and those circumstances were medical expenses, arrears of mortgage, or eligible educational expenses.

I do not understand why it does not say "one or more of the circumstances mentioned," because it almost sounds like you have got to apply for two or more to be able to make the application. And, clearly, I think we want to be able to allow someone to apply just for medical or just for educational. So that is one of the questions I have.

I am moving over now to page 7. And this is under clause 13, which details the Decision of the Commission. And it says, "[(1)] The Commission shall consider the completed application . . ." as an application for hardship to be able to withdraw money from the account. And it says, "[(3)] If the application is approved, the Commission shall send notification to the administrator [(a)] of the amount to be refunded from the applicant's account; and [(b)] directing the administrator to make the payment."

The question I have is, Does the Commission under these regulations . . . is the Commission allowed any discretion? For example, if someone comes in and says, *I am making an application for $10,000,* and the Commission does their diligence—which I am hoping and assuming they will—and says, *Look. You know, you really only need $5,000 because you have got sufficient money from other sources to be able to do this.* Can the Commission come back and approve an amount which is outside that for which the application was really made?

In other words, can they approve $5,000 when the application was asking for $10,000? That is the second question.

And the clause below that, clause 14, it is the duty of the administrator to make payment if application is approved. And perhaps this may be seen as somewhat self-serving on behalf of those that actually have to administer this, Government has clearly allowed its ability to charge a fee of $100. But this particular paragraph here, [clause] 14, says "[(4)] The administer shall not levy a fee against the account or the applicant in relation to making a provision of the statement . . ." In other words, the service provider is not allowed to sort of charge a fee.

And the question I have is, Why not? If Government can charge a fee, they obviously have costs. And the service provider will obviously have costs here as well. I understand that it is fine for Government to give away other people's money. I understand that this may be seen to be a little bit self-serving; so be it. But there are others out there who will then have to, essentially, cover this cost through administration charges to others. So I think in this particular case, why not a fee? And maybe it could be limited to $100 or something like that. Why is not a fee allowed to be charged by the administrator?

Actually, I have one more comment. And this was sort of a situation that I think a couple of people raised. It gets back to the issue of discretion of the Commission. Let us suppose that somebody has a mortgage of $700,000 on a house or a condo or something of that sort. They are several years into it. They have paid $200,000. That is what they have actually paid into it. So they have paid down the mortgage by about $200,000. They have got $500,000 left they owe.

They are laid off. The bank is trying to work with them. They are doing their best. But they then come to the Pension Commission. They say, *Look. I want to take out $10,000 because the bank says this will help me for a couple of more months to make these payments. They will not foreclose.* But clearly, it is what I would call a pyrrhic victory because if they are still out of work a couple of months down the road, not only will they be in a position where they are still going to be subject to foreclosure; they have paid a few more months with the $10,000, but clearly it is not going to address what I will call the medium-term problem here.

Would the Pension Commission say to them, *You know, look. You are probably in better shape leaving that money in your pension account and doing the best you can to work it out with the bank or the financial company or whatever you have taken the mortgage from, because clearly that $10,000 is going to be putting good money after bad; it is really not going to help you to save the house?*

That is the kind of issue that I can see here. And does the Commission have the ability to be able to say, *Look. You know, get some better financial advice here. This is probably not a good way to spend your pension assets?*

Those are all my questions. Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Dr. Gibbons.

The Chair recognises Mrs. L. A. Jackson, the Representative for Pembroke South West, constituency 20.

Mrs. Jackson, you have the floor.

Mrs. Louise A. Jackson: Thank you, Madam Deputy Speaker.

As our Shadow Finance Minister, Bob Richards, the Honourable Member, mentioned, we certainly are in agreement with this. But there are portions of it that do give me and our side here concern.

I think the concerns have to do with the fact that Bermudians who do not have private major health insurance have a huge financial hurdle to jump if by some unfortunate action they have an accident or they have a catastrophic episode as far as health is concerned and they require overseas treatment to save their lives. If you do not have private health insurance, you have to be a very wealthy person in order to get that treatment overseas.

And I want to speak to that because if you have to dip into your pension, or something that should be a part of a Government health insurance scheme in the first place, or you are in a position of having to pay such high fees (according to your budget) for a Government health insurance, as people who are over 70 have to pay $600 a month for their insurance and still have to face the fact that they are not covered for air ambulance or for travel expenses abroad or for taking a companion with them, and they must pay 20 per cent of the hospital bill. And we are talking about incidents that happened overseas that usually come to at least $100,000. And who in the world has 20 per cent of $100,000? You are talking about $20,000 travel expenses and all the rest of it. To have to dip into your pension in order to do that is not fair.

So looking at our HIP and Future Care, the two Government pension plans, I guess you are going to have the answer there that, *Oh, well, you can go to the LCCA and get help with these things.*

The Deputy Speaker: Might I remind you that this is about the National Pension Scheme Financial Hardship . . . we are in the House.

Mrs. Louise A. Jackson: Yes.

The Deputy Speaker: And in the House, you can stray a little; but let us not get into a debate on health.

Mrs. Louise A. Jackson: Yes. I am talking, Madam Deputy Speaker, if I can refer you to—

The Deputy Speaker: It says "eligible medical expenses."

Mrs. Louise A. Jackson: —"eligible medical expenses." And these are not . . . these medical expenses that they are putting here are things that should be provided, Madam Deputy Speaker, in . . . I will put it this way, a comprehensive Government health insurance plan, so people do not have to dip into their—

The Deputy Speaker: Let me just say this. It is fine to refer and slip it in. Very nice. Let us not belabour that point because that is not the discussion.

Mrs. Louise A. Jackson: All right.

The Deputy Speaker: I only came in because you were starting to wax lyrical.

Mrs. Louise A. Jackson: Oh. Thank you. I will try to temper my remarks. Thank you very much for your guidance.

We have today in today's headlines, Madam Deputy Speaker, an article about someone who is . . . I do not know. Perhaps she might have to dip into her pension for this. It is a mother owing $36,000 for the treatment of two of her babies, premature babies. And the cost of that in this hospital came to $36,000. Now, she is trying to work that off, and so far she has paid off, I think, $6,000, so she only now has $30,000 to go.

She might very well be one of the people who will be asking for this, to dip into her pension, for all I know.

What I am saying—

The Deputy Speaker: I am not sure whether or not that mother is in fact a pensioner. So you can use that to speculate. Just let us keep it on the topic.

Your examples are examples, not the main meat of your discussion.

Mrs. Louise A. Jackson: All right.

I would think she is employed, Madam Deputy Speaker. So, therefore, she would be in a pension plan. I think she has been employed, which would make her eligible. She is employed at the moment. And I think in the paper it says that she is insured at this point. So she has a pension, and she is paying her social insurance, and she is also paying for her hospital insurance at this point. So I think she would be eligible.

What I am saying here is that we should not have to see such incidents. If this was a Government

that had planned well, as far as health insurance was concerned, these kinds of things would not be happening to our citizens. They are either under-insured, or some of them, as you know, not insured at all.

I was talking about the help that a lot of our Bermudians got before this particular regulation has come in. And that is, they went to the LCCA for help for these medical expenses that are listed in this particular regulation. And they have down here ambulance services, wheelchairs, spectacles, dentures, even prescription drugs. I find that very, very sad that we have a Government that would have to have people dip into their pension in order to buy prescriptions to stay alive. I find that reprehensible.

Anyway, getting back to this list of things or services that you would have to go into, dip into your pension for, again, the LCCA cannot provide that anymore. Evidently, Future Care is no longer on their list of organisations that they will use their funds for. And before it is said, I do know that the LCCA is funded partially by Government. They usually run out of the money in, what, six to seven months, and there is nothing there. I do not know what the situation is at this point. But Government should not be dependent upon a charity to provide services for our citizens.

Hon. Walter H. Roban: Point of order.

The Deputy Speaker: Sorry.

Point of order, Mrs. Jackson.

Hon. Walter H. Roban: Yes.

The Deputy Speaker: Minister Roban, what is your point of order?

POINT OF ORDER
[Misleading]

Hon. Walter H. Roban: The Honourable Member is misleading the House. And I think it is also—

The Deputy Speaker: In what way?

Hon. Walter H. Roban: In what way?

She is misleading them about an organisation such as the LCCA that does, yes, get Government funding, but she is imputing that they do not have money, or lose money. And I do not believe that is factual at all, and that is misleading the public.

The Deputy Speaker: No, that is not what—what she did say is that Government was leaning on a charity to do their work.

Hon. Walter H. Roban: No. The Honourable Member also said that the LCCA runs out of money, and that is incorrect.

The Deputy Speaker: I do not remember the Member saying that.

Is that your point of order, Minister Roban? Because I do not find that I am able to uphold that.

Mrs. Louise A. Jackson: Thank you. Thank you very much, Madam Deputy Speaker.

The Deputy Speaker: But he had one, but he did not make it.

[Laughter and inaudible interjections]

Mrs. Louise A. Jackson: I will make it as clear as I possibly can. As my grandmother used to say, I will try to make it as clear as Nelly's water, which is the clearest water in town.

The Deputy Speaker: Pellucidly clear.

Mrs. Louise A. Jackson: Government supports the LCCA.

The Deputy Speaker: Right.

Mrs. Louise A. Jackson: That is the first thing.

The second thing is, the LCCA usually runs out of funds for extraordinary fees such as air ambulance and the rest of it—as they did in 2009. And I will assume that they probably will run out of funds in 2010, if they have not run out of funds already for such things.

I also said that the LCCA does not help Future Care patients. They do help patients who are on HIP. And I further said that a responsible Government would not be dependent upon a charity to save its people when they need help in saving their lives by getting air ambulance or other facilities to help them to stay alive.

In other words, if the LCCA cannot provide the air ambulance, then they stay here in Bermuda, and whatever happens, happens, if they die.

The Deputy Speaker: And just find a way to relate that to pension scheme, so that, you know, those who know that this is the topic under discussion.

Mrs. Louise A. Jackson: This is on page 3, Madam Deputy Speaker.

The Deputy Speaker: Which is "eligible medical expenses."

Mrs. Louise A. Jackson: "Eligible medical expenses," services—

The Deputy Speaker: And so the discussion has to be about what makes them eligible or what makes them ineligible, or other ones that should be eligible;

but not about a totally different topic. There is some leeway. But your leeway cannot be your whole subject. It has to be an aside.

Mrs. Louise A. Jackson: Well, I will talk about ambulance services. And I will talk about—

The Deputy Speaker: You have done that.

Mrs. Louise A. Jackson: Oh. All right.

[Inaudible interjections]

The Deputy Speaker: Okay. Okay. Fine! Then I will hear this.

Mrs. Louise A. Jackson: Well, Madam Deputy Speaker, what I would like to talk about now, really—and this impacts on a group of people who are very highly dependent upon this and probably are going into their pensions.

The Deputy Speaker: Yes.

Mrs. Louise A. Jackson: And that is the war veterans. Now, I want to start off by congratulating the Government on what they have done for the war vets, particularly Honourable Simmons, who was an Honourable Member.

The Deputy Speaker: Well, we had congrats and all that earlier today.

Mrs. Louise A. Jackson: I just wanted to let you know that I feel that what they have done for the war vets—

The Deputy Speaker: Yes, but the Bill under discussion is the National Pension Scheme (Financial Hardship) Regulations.

Mrs. Louise A. Jackson: But this regulation impacts on war vets to a great extent. As a group of people, they are the ones who urgently need air ambulance. They urgently need almost everything on this list. I certainly . . . my information tells me that they do have a very, very, very, very good hospital plan. I certainly cannot fault that. But many of them do not fall under a category that allows them to get air ambulance and the rest of it listed here.

[Inaudible interjections]

Hon Zane J. S. De Silva: Point of order, Madam Deputy Speaker. Point of order.

The Deputy Speaker: Wait a minute, Mrs. Jackson. I have a point of order. Would you sit, please?

The point of order, Minister Zane De Silva?

POINT OF ORDER
[Misleading]

Hon Zane J. S. De Silva: Yes, Madam Deputy Speaker.

The Honourable Member is misleading the House somewhat.

The Deputy Speaker: In what manner?

Hon Zane J. S. De Silva: The war veterans' scheme is totally separate from this. It will not be affected by this Bill. It is a totally separate scheme altogether.

The Deputy Speaker: That is understandable. I think the Member was saying that they needed this scheme as well.

Mrs. Louise A. Jackson: Thank you, Madam Deputy Speaker. You are certainly able to interpret this point of thinking.

The Deputy Speaker: No, I am doing my best to try and see where you tie in. I am having great difficulty; but I am trying.

Mrs. Louise A. Jackson: I will try to make it very clear to you. I am referring to page 3.

The Deputy Speaker: I have got you. I have got you, page 3.

Mrs. Louise A. Jackson: "Eligible medical expenses."

The Deputy Speaker: Clause 4.

Mrs. Louise A. Jackson: Clause 4.

The Deputy Speaker: Subsection (2).

Mrs. Louise A. Jackson: And I am talking about every one of these—

The Deputy Speaker: But that is not exactly—

Mrs. Louise A. Jackson: Specifically, specifically I will refer then to each one.

The Deputy Speaker: But they are not the topic, in and of themselves, of the regulations.

These are expenses that are eligible for a person who is applying to the pension scheme under financial hardship. So you must put it in context. And the context is not where you have been. The context is that, under this particular regulation, these are the things that can be applied for.

Now, if you wanted to say there should be more things that they can apply for or less things than they can apply for, then that is within the range of the topic. But I have allowed you great leeway. But I do not want you to stretch it so that the elastic band breaks.

Mrs. Louise A. Jackson: Madam Deputy Speaker, I think that I have gotten my point across.

The Deputy Speaker: I think you have more than gotten your point across.

Mrs. Louise A. Jackson: Yes. And I appreciate your indulgence.

The Deputy Speaker: Thank you.

Mrs. Louise A. Jackson: I just want to finish by saying that I sincerely hope that one day we will not need to see Bermudians dip into their pensions because they do not have an adequate Government health insurance plan which would cover these expenses listed in this regulation.

Thank you very much.

The Deputy Speaker: Thank you, Mrs. Jackson.

Does any other Honourable Member wish to speak to the National Pension Scheme (Financial Hardship) Regulations, 2010?

I am going to recognise the Honourable and Learned Member, S. G. Crockwell, the Representative for Pembroke West, constituency 19.

Mr. Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Thank you, Madam Deputy Speaker. I will be very brief, Madam Deputy Speaker.

We certainly all appreciate the dangers of dipping into pension. We certainly expressed our concerns when we debated this after the Throne Speech.

An Hon. Member: After the budget.

Mr. Shawn G. Crockwell: After the budget, thank you.

But in a perfect world, Madam Deputy Speaker, we would not have to be here. We would not be discussing this. Individuals can preserve their pension for the time when they need it most. But unfortunately, we are not living in that perfect world. And as the Honourable Member who just took her seat alluded to the case that is in the *Royal Gazette* today, there are individuals who need to revert to this extreme option.

And, certainly, we hope that there will be limited individuals; but there are individuals who will find themselves in financial hardship. I believe that the regulations outline areas that are reasonable to allow individuals to take this step so that they can manage their financial affairs today. And, certainly, we want to ensure that people have sufficient finances for when that time comes for their retirement. But it makes no sense having availability to funds in 10–15 years when they cannot meet their financial obligations today.

So, we understand and we support the ethos behind this particular initiative. We certainly recognise that it is a danger and it can create a further difficult situation in the future. But we will put our trust in the Commission. We will certainly hope that the discretion will be used prudently. But we have to provide the individuals today with relief. And I believe that that is what this particular initiative and these regulations will do. I think the Honourable Dr. Gibbons raised some excellent questions that I look forward to hearing the answers to.

We support this initiative reluctantly, because we understand and appreciate the dangers. But we know that in the times that we are living in, it is needed. And so we just want to say on the record that we support what we are passing today.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Crockwell.

I recognise the Member for Paget West, constituency 23, Mrs. P. J. Gordon-Pamplin.

Mrs. Gordon-Pamplin, you have the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, most of us who have pensions will know that when you receive your pension statements on a quarterly basis that the value of what you are seeing is significantly less in many instances than what you have actually put in. And I know while the intent of having a pension, of saving money and putting it aside for pension, is the ideal goal, some of us have come to the conclusion that it is better to take the deductions out of your pay every pay period and put it in a tin and leave it in the henhouse in terms of how pensions are being valued.

What we are seeing now is the ability, for hardship purposes, to be able to dip into a pension fund for specific, eligible expenses.

The only point to which I wished to allude was (as many of the other points that I wanted to make have obviously been covered by other Members) . . . But the main point is that with respect to the application fees of making an application for the eligibility, for the consideration of getting some of these funds, based on the specific terms that are being permitted. And I say that from the perspective that you will find that the people who are most likely to have significant hardship and would require to dip into their funds to tide them over are invariably going to be people of relatively meagre means. I say that because they would be not eligible if you have got people who have got lots of money set aside, many funds.

When there is an application made, the Pension Commission will ensure that there is not another source of funds, so that they are not going to drain the pension fund if there are other available resources. So it is going to be those people of meagre means or ability to pay that have had this hardship thrust upon them, such that they would need to have access to monies that would be available to them under these regulations.

And when that happens, when you think in terms of people who have limited means, who perhaps have had relatively meagre earnings, and hence the value of their pension funds may not be that significant, such that even 20 per cent of the amount that they have in their funds may be miniscule by comparison, we are looking at someone who has a minimum, or according to the regs, that there is a minimum of $1,000 that could be applied for. But the fee relating to that application is 10 per cent of that $1,000. That is a $100 application fee.

Now, while it is a flat fee, somebody who is going to get $1,000—because that is what they are eligible for, or maybe that is what they require—somebody who is going to need $1,000 is going to have to pay $100 to apply. And somebody who is going to get 20 per cent of the eligible value of their funds, commuted if necessary, might be as much as $10,000 or $12,000 or $14,000 that they are getting. And they also pay a $100 application fee.

Now, the person who is going to get $14,000–$15,000 out of the fund can perhaps lose that $100 without it having a major impact. But the person getting $1,000—having to still pay that $100 fee—is going to find themselves in as difficult a circumstance at the end of getting the benefit than they did perhaps even before the benefit inured to them.

So, I am a little concerned as to whether the Pension Commissioners could perhaps have either a range of fees, notwithstanding that I understand the application, but that there is going to be perhaps same amount of work that is going to be required to get something done. But we have also got to look at, if we are trying to ameliorate a hardship, then clearly we want to maximise the availability of funds that an applicant is likely to have. And to have $100 taken out of a $1,000 application seems a little bit above and beyond for somebody who finds themselves in that situation.

I also take the point that going into a pension scheme could be a Government pension scheme or it could be a private pension scheme. And when we look at the deduction from available funds, I take the point that the Honourable Grant Gibbons made with respect to the administration of both a Government application to be able to vet it, as well as the administration of the private fund out of which these pensions might be taken. And I am just a little curious about the application fee.

We obviously have to discourage applications that are frivolous. So we want to ensure that somebody is really in serious hardship and know that there is a reasonable opportunity of them to get the funds, based on their application. But I am just a little concerned about the value of that application fee, especially when what is eligible to be applied for may, in and of itself, already be suppressed by value of the miniscule amount that one may have contributed to their funds in the first instance.

I just wondered if the Minister could perhaps give us a thought, or whether that could possibly be considered as time goes on as to whether we could be looking at something like that to help to ease some of the hardships that would be experienced, even further hardship, for additional funds being deducted from a small amount that might be eligible for payment.

Thank you.

The Deputy Speaker: Thank you, Mrs. Gordon-Pamplin.

I recognise the Honourable and Learned Member, Trevor D. Moniz, the Representative for Smith's West, constituency 9.

Mr. Moniz, you have the floor.

Hon. Trevor G. Moniz: Thank you, thank you, Madam Deputy Speaker. Just a brief matter here.

I have been up on the Pension Commission website, and I noticed that on the website the last annual report that is available is 2006. Now, you know, I am informed that that is because they have not had a sign-off from the Auditor General, and not for any special reason other than the Auditor General has not been able to get to that level of work. I do not want to get into that aspect of it.

But I say that because what I am wondering here is, I am concerned about the level of delinquencies. When the Pension Commission came into creation in 1998, obviously a large part of their work was to get everyone onboard, get the employers, the employees, the self-employed people onboard and involved in pension schemes.

And there was quite a steep sort of graph headed upwards. And I know on the website we have the 2005 annual report and 2006. At that time it looked like it was a very steep, upward swing. It is saying in 2005 there were 8,773 employees or self-employed persons, and in 2006 there were something like 18,000. So it looked like they were going up very swiftly.

Now, at that time in 2005, it was indicated that there were 792 delinquent employers. In 2006, it had gone down from 792 in 2005 to 737 in 2006. So the number of delinquent employers were going down.

What I would like the Minister to supply are the up-to-date figures, because now that that sort of bubble, the economic bubble, of this country is over

and we have gone into recession at the end of 2008, I am presuming that the number of delinquent employers is on the upswing. So, you know, my concern here is that many of the people who might want to opt into this scheme for some sort of relief may find that there is no money in the scheme or very little money in the scheme because the employer has not been putting it in.

Now, you can get this in several different ways. You might get an employer who is deducting for the pension scheme and not taking that money and putting it into the scheme, and using it to run their business. Or you might get a situation where they are just not collecting it.

But obviously, as my honourable colleague Mr. Richards points out, it is fraud if one is collecting to put it in the scheme and it is not going in. But this has been a major problem in Bermuda, and it becomes a more major problem during a period of recession when employers are short of money and they are looking anywhere for some cash to keep their business running. So it is a great attraction to dip into that fund.

I would just like to know what the up-to-date figures are, to know, to let the people of this country know that the scheme is in good health or not-so-good health; I think the truth should be known.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Moniz.

I recognise the time. I am going to recognise the Deputy Premier, the Honourable and Learned Member, Paula A. Cox.

Minister Cox?

Hon. Paula A. Cox: Thank you, Madam Deputy Speaker.

I would like to move that the House do now adjourn for lunch.

The Deputy Speaker: Thank you.

It has been moved that the House do now adjourn for lunch. It being the set time, I take it we are all in agreement.

Proceedings suspended at 12:32 pm

Proceedings resumed at 2:00 pm

[Hon. Dame Jennifer Smith, in the Chair]

NATIONAL PENSION SCHEME (FINANCIAL HARDSHIP) REGULATIONS 2010

[Continuation of debate thereon]

The Deputy Speaker: We will resume in the House.

We are in the consideration of draft regulations entitled the National Pension Scheme (Financial Hardship) Regulations, 2010.

The Minister of Finance, the Honourable and Learned Paula A. Cox, is the Minister in charge. Before I invite her to reply to the numerous comments and questions made prior to the lunch break, I will just see if there are any other Members who wish to speak to the regulations.

The Chair recognises the Honourable W. H. Roban, the Minister of Health and the Representative for Pembroke East, constituency 15.

Minister Roban, you have the floor.

Hon. Walter H. Roban: Thank you, Madam Deputy Speaker, for this opportunity to briefly speak to this, the National Pension Scheme (Financial Hardship) Regulations, 2010.

I must certainly commend the Ministry of Finance for bringing these regulations here to us. They made it quite clear what the intention was (the Honourable Minister) some time ago. And this is truly to help. Often, legislation perhaps has less direct impact on the public and pertains to the Government doing its business, which sometimes the public does not see. But this is something that will essentially create hope for many. Those who find themselves specifically in a position, as a result of unanticipated consequences, due to the hardship of the times which many are experiencing, this is a window of giving them some genuine assistance.

I certainly have listened to quite a few comments made by Honourable Members prior to the break. I will not go back over that particular discussion, other than to say that it is important to know that this Government is always listening to the public and its needs.

It has, certainly through the economic crisis, done many things to provide avenues of assistance to persons, helping people to get control of their lives, to see that there is not always a dark tunnel when crisis comes about, that they can get help if they go the right agencies and the right persons. And what we are seeing in this regulation is the realisation of something that Government has been doing across the board, certainly in the Labour Ministry, with providing training opportunities.

Certainly, I would argue that our making Bermuda College free is another opportunity where hope has been created for persons who are looking for educational uplifting during this time, or retraining, or certainly our young people knowing that they can pursue their educational opportunity without hardship or the money being the priority upon which they have to first think about.

With this, the National Pension Scheme (Financial Hardship), any families that certainly fit the appropriate criteria—which I am sure that the Pensions Commission will put in place . . . I certainly have

confidence that they will ensure that cases that are brought to them in the appropriate manner, that the due diligence will be done to ensure that those persons receiving whatever relief through the Pension Schemes are genuine in nature and genuine in [their] request.

There is not much more I wish to say on this, Madam Deputy Speaker, other than, again, that I think the criteria outlined is appropriate. Education, possible loss of one's home, and, of course, medical situations . . . it is clear those are the situations that many people in these sort of circumstances find themselves having to struggle with.

Because in some cases, they are unanticipated, they are not necessarily the result of an individual in the dereliction of their own personal duty. It is perhaps the loss of a job due to circumstances of a company, or some crisis has emerged in their lives, that such things happen. This certainly is a window for some of those persons to make the appropriate application and gain some relief, whatever it may be.

So I again commend the Finance Ministry for bringing the regulations forward as promised—another promise made, promise kept by this Government and, certainly, the Minister—and I look forward to seeing, if we are availed of progress in this House, of how it goes, that people will be helped.

Thank you very much, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Minister Roban.

Does any other Honourable Member wish to speak to the Motion concerning the consideration of draft regulations entitled the National Pension Scheme (Financial Hardship) Regulations, 2010?

If not, I will call upon the Minister in charge to reply.

Minister Cox, you have the floor.

Hon. Paula A. Cox: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, I have a few points I would like to make. Firstly, let me say that I think this is a very positive and, in fact, a red letter day. Why do I say that? I say that because despite our predisposition and our stereotypes and also the conventional wisdom that you should not dip into a nest egg that is put there to salt away for future and to condition you and to help you to deal with issues that will come up when you are no longer an earner.

And yet, notwithstanding the traditional wisdom, the conventional wisdom, I think what you have heard today from both sides of the House, in fact, all sides of this House (since there are more than two), is the fact that Members are prepared to look at financial instruments as a way to keep people in the picture and to help to assist people when they are going through a period of hardship.

That is what these regulations, together with the Amending Act, which we dealt with during budget session, was to do. It was to provide a measure of assistance as we navigate some difficult economic times. There have been some unanticipated and unexpected challenges that people have faced in terms of their own personal financial circumstances. And while we are not saying that we are opening the floodgates, we have qualified and conditioned the measures where we are prepared to say a tick to allowing some assistance on the basis of where there are unanticipated medical expenses which have been uncovered, and where there are issues of educational expenses that need to be met so that parents, family members are able to continue to allow their children or family members to continue. We have also said that where there is the risk of a principal residence being lost because people are unable to keep up with their mortgage payments.

But we have said, Madam Deputy Speaker, that we are not just saying that it is wide open. No, we have conditioned it by certain criteria that have to be met. We have also said that it cannot be more than two occasions that you can apply. We have also said the proportion and the amount that can be given of your pension benefits.

We have also provided (which is in the primary Act) the fact that people have the opportunity on a voluntary basis to top up. For instance, if they take out of their bank account (think of it as your pension bank account), you have the opportunity on a voluntary basis to top it up when circumstances allow and when your financial position allows.

I think some interesting points and some good points were made by Honourable Members. And I think, certainly in terms of the issue of the Pension Commission, I think that the comment made by the Honourable Dr. Gibbons is certainly a valid one, and I think it makes sense, from an actuarial point of view, and the Pension Commission is looking at that. As former Honourable Premier has often said (the Honourable Alex Scott), there is no reason why we cannot chew gum and talk at the same time.

I think that while we are seeking to deal with all the issues that are within the remit of the Pension Commission, they are also looking at the aspect of affordability.

I think it is also important . . . because it is always dangerous to sort of extrapolate and do sort of an averaging out. I think also Honourable Members should be aware that the figure I gave about $1.2 billion, that excludes the amount that is for approved retirement accounts. There are individual approved retirement accounts. And, while I will not name the various pension providers, two in particular have the figures you look at. It comes to about a $188 million, almost $189 million. There are other, additional amounts in terms of individual approved retirement accounts that are not factored in. So I think we cannot

necessarily extrapolate and use the figure based on just solely what I gave as to the pension plans and the Pension Commission.

I think also, Madam Deputy Speaker, it is important to note that there is the option, if Members wish to, certainly it does not preclude, in terms of clause 3(3), notwithstanding the reference to (2) (you will see that in the clauses above), it does not preclude the application for a single financial hardship. It does not have to be a minimum that you have to qualify for (2).

I think it is also important to note that the Commission has certainly looked at . . . And that was one of the reasons why we did not bring the regulations immediately after passing the Act. It was to allow the Pension Commission to do some of the necessary preparatory work and diligence. Certainly, their original estimates have required that they make provision for an additional member of staff. Clearly, they do not have a crystal ball, but they believe that that is a reasonable approach and that that is what will certainly cover them in terms of going forward in terms of staffing.

The Honourable Member, Mr. Trevor Moniz, had asked about delinquency. There has been an improvement, but in terms of the figures as of 31st May 2010, there were just over 600 delinquent employers with outstanding pension contributions greater than three months. The Pension Commission is certainly working with employers to get them into good standing. Certainly, there has been, I think, some positive movement and some improvements over prior years.

I think also, Madam Deputy Speaker, that it is important to note that the Commission has certainly noted that the fact that you have . . . I think the issue of the fees. The amount that was chosen of $100 was really, I think, *de minimis*. The thinking was, in terms of the plan administrators, that already in terms of plan administration there are fees that are levied and that there was no need to provide for an additional fee to be charged in these circumstances, especially given the policy imperative and what we are looking at in terms of hardship. I think that that really was the thinking there.

And, while we will look and assess as it goes on, and how complex . . . but that is why we have also made it fairly tightly drafted in terms of the opportunity for hardship applications, that there are these three criteria. And the Commission has not taken on a lot of additional discretion so that it can be fairly narrowly prescribed. Because obviously, the thinking is that you do not wish to provide for people to be able to reduce the amount of their ultimate pension entitlement unnecessarily.

Those, Madam Deputy Speaker, are the questions that I sought to respond to. There were some extraneous comments made that were not directly relevant to the topic, but I think, clearly—as I said in my initial, opening comments in reply—that you appreciate that Members seem to appreciate that this is the way you can use a financial instrument in order to provide some help and assistance to those who are in need.

Those are the comments I wished to make in response. With those comments, Madam Deputy Speaker, I would like to move that the Draft Regulations be approved, and a message be sent to his Excellency the Governor.

The Deputy Speaker: It has been moved that the Draft Regulations entitled the National Pension Scheme (Financial Hardship) Regulations, 2010, be approved and the necessary message sent to His Excellency the Governor.

Those in favour of that Motion, signify it by saying aye. Those against, say nay.

AYES.

The Deputy Speaker: The ayes have it, and the necessary message will be sent.

[Motion carried: The National Pension Scheme (Financial Hardship) Regulations, 2010, were approved, and a message will be sent to his Excellency the Governor.]

SECOND READING

INSURANCE COMPANIES (SPECIAL FEES) ACT 2010

The Deputy Speaker: Thank you.

The next item on the Order paper is the Second Reading of the Insurance Companies (Special Fees) Act, 2010. Again, these are under the Minister of Finance, the Honourable and Learned Deputy Premier, Paula A. Cox.

Minister Cox, you have the floor.

Hon. Paula A. Cox: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, I move that the Bill entitled the Insurance Companies (Special Fees) Act, 2010, be now read the second time and committed.

The Deputy Speaker: You may continue, Minister.

Hon. Paula A. Cox: Thank you, Madam Deputy Speaker.

The purpose of the Insurance Companies (Special Fees) Act, 2010, Bill is to amend the Insurance Act, 1978, to introduce a special levy on Class 4 insurance companies to cover the cost of enhanced supervisory standards. This fee is a one-off payment, and it will be due on or before the 30th of September 2010.

The insurers affected have been broadly consulted with respect to these fees and understand the importance of this revenue generating effort.

Madam Deputy Speaker, there are approximately 1,240 active insurance companies incorporated in Bermuda, with aggregate total assets of just over $470 billion in 2008, compared to just over $440 billion in 2007. The Bermuda insurance market remains strong, writing a total of about $123.5 billion in gross premiums, and achieving a similar volume of business to the $124.4 billion written the previous year. Of that amount, the commercial sector wrote $103.4 billion in gross premiums.

The Authority approved 42 applications for licensing in 2009, as compared to 40 in 2008, and the majority of new market entrants for 2009 were a combination of captive and commercial insurers within Classes 3, 3A, and 3B.

The greatest proportion of business came from the US, with respect to both the captive and commercial insurance market. And, Madam Deputy Speaker, the regulatory enhancements which will be made as a result of these fees will occur in 2010, and are aimed at ensuring that Bermuda's supervisory framework remains on par with that of other leading jurisdictions in Europe, United States, and around the world.

Now, the Authority's efforts to prepare its own regulatory framework to meet current global regulatory changes have been accelerated by the European Solvency II Equivalence Initiative. This Initiative seeks to create European market integration with respect to the regulation of insurance products. Solvency II also makes provision for a third country, that is, a non-European community country, which would be the category Bermuda would fall into. So it also makes provision for a "third country equivalence."

Certainly, Madam Deputy Speaker, the Authority is convinced that their extensive preparations will result in there being no foreseeable technical impediments to Bermuda achieving such equivalence. It will also build on the high regulatory standards that Bermuda is committed to.

Madam Deputy Speaker, Bermuda has certainly maintained a high momentum in completing initiatives related to achieving regulatory equivalence for Bermuda's insurance regulations, specifically under Europe's Solvency II directive. Overall, the Authority has made specific progress in enhancing our regulatory regime for reinsurance consistent with these requirements.

Now, the directive sets the stage for third country equivalence, and the Authority has classified, set these touch points, as the core of our strategic regulatory priority. The directive forms the basis of our initiatives, which will require Bermuda to move forward quickly and thoughtfully as we tweak the regulatory model. Now, with this Bill, we are certainly seeking to ensure that these ongoing changes are met with the necessary financial and human resources to adequately shape the future of Bermuda's markets.

Now, Madam Deputy Speaker, as a result of the rapid nature of these developments, the Authority has provided clarity to the market with respect to the range of regulatory developments in a document which was published in March of 2009, entitled *Bermuda's Insurance Solvency Framework: The Roadmap to Mutual Recognition.* It was commonly referred to as the Solvency II Roadmap. The publication is certainly available on the Authority's website, and it serves as a guide to Bermuda's work towards achieving equivalence, and it also highlights the progress that has been made regarding the framework changes and the plans for further changes.

Amongst the most notable milestones that Bermuda has achieved over the last 12 months are the proposed framework for group supervision of Bermuda's largest reinsurers, the establishment of an applications and review process and related guidance towards permitting use of insurers' internal capital models to determine regulatory capital, and introducing an Insurance Code of Conduct, as well as conducting preliminary consultation on proposals for Own Risk Solvency Assessments and establishing eligible capital requirements.

The fee schedule, Madam Deputy Speaker, is to assist in meeting the financial needs of these initiatives by allocating the 2010 incremental costs amongst the Class 4 insurers. There is a sliding scale of fees, which is based on gross premiums written (GPW), which would certainly align fees with the highest supervisory costs associated with the larger, more complex entities. The fees are applicable to each entity, and single- and dual-licence holders will receive equal treatment.

The fee schedule, while it is set out, it certainly is . . . There are four bands: Band A, which deals with less than $400 million, and the applicable fee will be $80,000. There is Band B, which is for $400 million, but less than $800 million (in other words, a higher band), and the applicable fee there is $130,000. Band C, which is for $400 million, but less than $1.2 billion, and the band and applicable fee there is $180,000. Band D is for $1.2 billion or more, and the applicable fee in that case is $230,000.

The fee schedule, Madam Deputy Speaker, will generate approximately 50 per cent of the incremental resources needed to fund the regulatory enhanced activities in 2010, with $5 million out of the Authority's surplus account being used to fund the balance.

This fee schedule has been chosen specifically for the Class 4 insurers, and will ensure that the smaller entities are not unduly burdened. The proposed fees and the overall regulatory costs of Class 4 insurers are certainly in line with other leading jurisdictions.

The proposed Bill, Madam Deputy Speaker, is supported by industry stakeholders. Government, the Authority, and industry have joined together to meet with key persons in the European Commission, HM Treasury, and others to assist Bermuda in its goal to achieve mutual recognition under Solvency II.

In May, I was in Brussels for a round of meetings on this important brief, and Bermuda was considered to be well on its way towards broader international recognition. I certainly am very pleased to be able to report that just this week (in fact, last week) Bermuda was given a boost in its battle for equivalence with the latest CEIOPS Proposals (Committee of European Insurance and Occupational Pensions Supervisors), certainly recommending that our mid-Atlantic insurance hub is one of only two countries being considered for equivalence assessment during the next 12 months.

Now this is draft, so it is never over until the fat lady sings, but certainly, alongside Switzerland, Bermuda is set to receive an initial determination on equivalence.

I think, Madam Deputy Speaker, there is a lot of work that is being done by a lot of people in a lot of different areas, in terms of whether it is through the Authority, whether it is through the Industry and ABIR (Association of Bermuda Insurers and Reinsurers). People have been basically, I think, in and out of Bermuda on planes seeking to lobby and to make Bermuda's case. Because clearly, if we are not in the first wave, it will have an extremely adverse affect on our economic position and on our ability to retain those companies that are here, because this certainly has an impact on bottom lines of companies.

It has been important to note that there is the stratified fee structure, and it was deliberately stratified in order to try to have a measure of fairness, in terms of the assessment of the fee and in terms of having a sliding scale.

Certainly, I would like to thank all those who have worked and continue to work so assiduously to try to protect Bermuda's national economic interests, and certainly we are guardedly optimistic as to the ultimate position taken by the European Commission.

That is the rationale for the fee increase, Madam Deputy Speaker, and I am happy to commend this Bill to consideration of Honourable Members.

The Deputy Speaker: Thank you.

The Chair recognises Mr. E. T. (Bob) Richards, the Shadow Minister of Finance and the Representative for Devonshire East, constituency 11.

Mr. Richards, you have the floor.

Mr. Everard T. (Bob) Richards: Thank you very much, Madam Deputy Speaker.

I think that I have just a few points to make here. First of all, I understand the reason for this, the desire to have Bermuda achieve Solvency II equivalency. Everybody in insurance is talking about that, both here and abroad, and I think that is vital for our industry moving forward. Unfortunately, we live in a world that seems to be driven by regulation instead of by economics. But that is the way it goes.

However, I think that the increase in fees to Class 4 insurers—and I think that most of us would consider that Class 4 insurers can certainly afford it, as they are the largest of the insurers and reinsurers on the Island. But I want to give a cautionary note—it is only so often that you can go to this particular well. These fee increases come on the heels of tax increases this very spring. Some of those tax increases, for some of the insurers that have a significant staff in Bermuda, some of those tax increases were very significant indeed.

So, one really has to start to be careful about how often you go to this well. Eventually, any well will run dry, or, if they do not run dry, they will certainly be *unwilling*. That is more of a question here as opposed to running out of money; it is the question of unwilling to pay, or starting to look for alternatives that are cheaper. So we have to look at that in terms of our competitiveness.

So there is a balance, and I am sure the Honourable Minister will be the first to say there is a balance to be struck here, and I suspect we have not put the balance out of kilter with these fee increases. But these things do have a cumulative effect. So we really have to start looking at the competitiveness of our industry and the overhead that results from beefing up regulation.

Now, the regulator in this case—

[Gavel]

Mr. Everard T. (Bob) Richards: May I continue? Thank you.

The Deputy Speaker: Continue. That was for the person with their rear facing the speaker.

[Laughter]

Mr. Everard T. (Bob) Richards: Ah, that is definitely not acceptable. Worse than the Queen's Bottom, that is right. *[Laughs]*

Yes, we are talking about regulation of the insurance industry and the regulator. And, in this case, the regulator is the Bermuda Monetary Authority. I think we have all been aware—those of us who are BMA watchers (like I am)—of a very large increase in the size of that organisation.

The Deputy Speaker: You have to do it on your knees. That is right.

[Gavel]

The Deputy Speaker: If you cannot do it without attracting my attention, then you will have to wait until after.

I do not know what is going on in that corner, but you will have to deal with it.

Continue, Mr. Richards. My attention was being diverted from you.

Mr. Everard T. (Bob) Richards: Thank you, Madam Deputy Speaker. And I was being misdirected, myself. I am trying to get back to my line of thought!

Anyway, we were talking about the BMA here. It has been a concern to me. Because this money is going to the BMA, it has been a concern to me about what I have observed in the past maybe two years, particularly in the last year. I am concerned about the rise of a very large regulatory organisation, a government-owned regulatory organisation that does not appear to have the kind of public oversight that is required.

What do I mean by that? Well, Madam Deputy Speaker, you may recall earlier this year I asked the parliamentary question about a salary of a former Head of the Monetary Authority. It was reported that he had total compensation of over $700,000 a year. That was a very large number (an alarming number, quite frankly), and I asked the Honourable Minister about that. I received a non-answer from her, on the basis that the BMA was an independent regulatory body, and it was not her place to answer that question.

Well, what I am concerned about here, in that context, is that if the BMA is an independent regulatory organisation, but it is a Government organisation, who is responsible for the public oversight of that institution? If it is not the Minister, and through the Minister to this legislative body, where is the public oversight of that organisation?

Now, we all know that that organisation is not miniscule like it was back in the days of yore when I worked there. This is a big organisation now, spending big money. There is a requirement. If the Finance Minister is not going to be responsible to the public for the operations of the Monetary Authority and for questions of that organisation, then there is a requirement for the establishment of an oversight organisation to do that.

To me, it does not matter whether it is the Minister or whether it is some sort of committee, commission or something that answers to this House. But the people of Bermuda—because they are spending public money at the BMA—require oversight of that organisation. It is only rational, and I think it is common sense, quite frankly.

So, in the context of this particular Bill that is before us, where we are taking money out of our largest private-sector institutions, and we are shovelling some more money into the BMA so that they can meet Solvency II equivalency, nobody on this side is going to object to that objective. But, once the money goes into there, plus all the other money that goes into the BMA, what happens to that money is a question that no one—at least in this side of the House and in the public—can answer. Yes, they provide an annual report that is available for all to see; but that is not enough for an organisation that is as large and as important as the BMA has become.

So, that is my chief concern here. This is an illustration of the growing need to have more public scrutiny of the operations of the Bermuda Monetary Authority. But as for the Bill itself, we do not have any objections to it, other than the issue of long-term competitiveness, because you just cannot keep going to that well.

Thank you.

The Deputy Speaker: Thank you, Mr. Richards.

I recognise the Honourable Member from Paget West, constituency 23, Mrs. P. J. Gordon-Pamplin.

Mrs. Gordon-Pamplin, you have the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, may I first begin by declaring my interest, inasmuch as I am the chief accountant for a Class 4 insurer, and, as a result, our company is going to be impacted by this legislation.

However, having said that, and recognising that I am caught a little bit between a rock and a hard place where, on the one hand, I am required in this Honourable House to advance the cause of more money coming out of the coffers, and on the other hand, having to pay the bill, it kind of puts me slightly on the horns of a dilemma.

However, with the cost for insurers recognising the responsibility to contribute to the cost of the regulatory environment and framework that is necessary both to keep Bermuda on the cutting edge of the international insurance industry and to maintain our position that is required for us to be able to achieve Solvency II equivalence, I think that dilemma is a little minimised because on the one hand, writing the check, and on the other hand knowing that the country will benefit, I think somehow the scales have tipped in favour of the country.

My honourable colleague indicated that we noted that many of the insurers, the Class 4 insurers who are asked to continuously shoulder the financial burden of the regulatory costs respecting the regulation that is required, that they can perhaps afford it at the moment. I said, *I think maybe they can afford to write me a bigger check*, but they do not. So I am a little bit concerned that ultimately we do not wish to bother the goose that lays the golden egg. So we need to be a little bit mindful.

You will be aware, Madam Deputy Speaker, that many of our local Class 4 operations actually

have operations within the European economic community and, as such, this type of additional regulation and the advent of Solvency II and Bermuda's equivalence is going to be vital to their continued operations. And I believe it is in that vein that members of ABIR (Association of Bermuda Insurers and Re-insurers) were able to acquiesce and to come to grips with acknowledging the necessity for these particular fees.

And, notwithstanding that there may have been a little bit of reluctance at the outset because, you will recall, Madam Deputy Speaker, the year before last, or the early part of last year, the Class 4 insurers were assessed a special fee of $40,000 from last year, an additional $40,000 for this year, which were special fees not to be repeated, in order to help to finance the additional regulatory requirement from the BMA.

That having been done and contributed and paid, we then find, as the BMA made the determination that there were further requirements on their behalf to increase their staffing and increase the level of expertise that is required for equivalency oversight, that they now found themselves on the short end of the financial burden, with having to raise, in fact, more money to have more people who are qualified to be able to oversee this new requirement for equivalency.

One of the things that I believe that the insurance industry are very, very pleased about is the positive feeling that the regulatory agency that we have in Bermuda is, in fact, keeping up with its requirements, and as such, that we may very well be considered in that first wave of third countries that will be given equivalency under this new legislation.

The BMA have, to that end, implemented things such as group supervision, rules and regulations, and all sorts of things that would enhance its ability for effective regulatory oversight and to make us appear that—to make us in reality a jurisdiction that fulfils all of the requirements that one would expect of a first class regulatory environment.

Now we recognise, Madam Deputy Speaker, that the developments respecting Solvency II are extremely fluid. So, whereas we thought that $40,000 . . . And that $40,000 special assessment last year and for this year came on the back of an initial fee for Class 4 insurers, which was $55,000 annual fee. That $55,000 raised from $55,000 to $210,000 for annual fee for Class 4's, on top of which was the $40,000 special assessment for last year and this.

So we started to look at the actual costs relating to, or the effect on our bottom line as Class 4 insurers, and started to express a little bit of concern that these costs were getting out of hand. But, that having been said, when one weighs (as I said initially) the benefits against the costs, we have to look at, the benefits actually outweigh what it is that we might complain and groan and gripe about in the short term.

Because I believe that the Monetary Authority, having a mandate to ensure that they themselves are, in fact, as cutting edge as possible and maintain at that level, that this is a requirement. And I think that the pill, Madam Deputy Speaker, has been made a little easier to swallow when one understands that, historically, we have gone to the well of Class 4's, but that, ultimately, this Bill effectively relates only to Class 4's and the various bands. And obviously, the success of an organisation just causes you to pay more because, as the Minister alluded to, there are four bands, and the higher band of gross-written premium, you have to pay a higher amount of money.

But it was, I think, a little easier to swallow the pill when one was able to accept the fact that the next step for the Monetary Authority and the regulatory regime, is to ensure that all of the insurers carry their fair share.

So we will have, eventually, the Classes 1 through 3B, which will have a contributory share of the costs of regulation, and I have to say that that is just the reality. Because, as a Class 4, we do not necessarily always want to have to bear all the burden.

I think that, notwithstanding that there will be kicking and screaming from Class 1's through Class 3B's (they will be kicking and screaming, we have no doubt), but I think that in the overall analyses, there is definitely the acceptance and the recognition that remaining on the cutting edge is vital, in addition to which being able to obtain equivalency for our jurisdiction is of paramount importance to the health of the industry and to the benefit of those local corporations that have international, and especially European Union, affiliates.

So, in that regard, as my honourable colleague indicated, we certainly have no objection to this. It might impact on whether we get salary increases this time, especially looking at . . . might have an impact on bonuses. My bonus just went down the drain. Although it is nowhere near this, but never mind. I am sure that when I come, cap in hand, or when I join the bread line there will be sympathy or empathy.

Thank you, Madam Deputy Speaker.

[Laughter]

The Deputy Speaker: Thank you, Mrs. Gordon-Pamplin.

The Chair recognises the Honourable and Learned, S. G. Crockwell, the Representative for Pembroke West, constituency 19.

Mr. Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Thank you, Madam Deputy Speaker.

In investigating and looking at this Bill, we consulted with members of the class for reinsurers, and almost to the person, they supported this Bill. They stated their approval of how the Bermuda Monetary Authority and, in particular, the new CEO Mr. Jer-

emy Cox, are doing there, and they are very pleased with the direction that we are going in this jurisdiction.

We certainly echo the comments of the previous two speakers. The Honourable Member, Mrs. Gordon-Pamplin, just said I did not act sharp, but I knew I was going to get a very good account from her today.

But there was no objection at all, Madam Deputy Speaker, to this Bill. The only concern that was espoused was the fact that there is a feeling that our jurisdiction is being pushed to match the regulatory systems in the United States and in Germany. And there is a feeling that if we achieve that, then we may no longer have a competitive edge and that it will become an extremely burdensome jurisdiction to do business here.

As we know, we need the Class 4 reinsurers for our economy, and they do provide a significant amount of jobs for Bermudians. So, that was the only concern that was stated. But all in all, they supported the Bill and certainly supported the work that the BMA is doing at this time.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Crockwell.

Does any other Honourable Member wish to speak to the Motion that the Insurance Companies (Special Fees) Act, 2010, be now read a second time and be committed?

If not, the Minister in charge will reply before we move into Committee.

Hon. Paula A. Cox: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, there is very little that remains for me to say, except that the Authority is charging this as a one-time foundational fee for 2010.

Clearly, Madam Deputy Speaker, there is an accountability framework, and that is through the fact that legislation for the BMA comes to this Honourable House. They certainly are audited by Madam Auditor General. There is also, in terms of their board responsibility . . . they have independent members of the board. And you will remember, Madam Deputy Speaker, that it is very important that there is the seen to be and there is, in fact, operational independence from political policy makers, and we are very scrupulously maintaining that balance.

I think it is important to note also, for those who require context (ever so briefly), that the Bermuda Monetary Authority, as the independent regulator, does a yeoman's job in terms of seeking to position Bermuda in terms of financial regulatory matters, so that it is in the interest of Bermuda's national interest. Certainly, with regard to Solvency II and the equivalence movement, if there are certain larger jurisdictions that have their nose considerably out of joint because of the fact that they were not even included in the CEIOPS draft recommendations.

I think you cannot, as Bermuda is seen to be the risk capital of the world, be seen to be doing that. And then you have to also make sure that when people come as external standard setters to look at our framework, to look at the manning levels, and not be seen to have the necessary people on the ground to do the job that is required, especially if you are seeking to be the group supervisor of monolithic entities, commercial entities, where we have seen only too recently how, when there is not appropriate supervision and regulation, it has had such a disastrous effect on world fortunes because of the lapse at the regulatory level. Certainly, Bermuda cannot stand, cannot tolerate to have that sort of holocaust laid at its door.

So, I certainly am appreciative of the support that is being given today to the independent regulator, and I would now like to move that this Bill be committed.

Thank you.

The Deputy Speaker: Thank you, Minister.

I am going to call on the Honourable Member from Hamilton West, Mr. W. L. Furbert, constituency 6, to take the chair.

House in Committee at 2:46 pm

[Hon. Wayne L. Furbert, in the Chair]

COMMITTEE ON BILL

INSURANCE COMPANIES (SPECIAL FEES) ACT 2010

The Chairman: I call the Minister in charge.

Hon. Paula A. Cox: Mr. Chairman, thank you very much.

I would like now to move clauses 1 to 3. Certainly, Mr. Chairman, clause 1 is the citation clause, the Insurance Companies (Special Fees) Act 2010.

Clause 2 is the interpretation clause. This provision certainly defines the "Authority" as the Bermuda Monetary Authority, as established pursuant to section 2 of the Bermuda Monetary Authority Act 1969; and a "Class 4 Insurer" as pursuant to section 4 of the Insurance Act.

Clause 3 is where the meat of the amendment is, and that is the Special Fees: Class 4 Insurers. This provision requires that every Class 4 Insurer shall, on or before the 30th September 2010, pay the special fee. And it certainly indicates how penalties for late payments shall be administered.

In the Committee of the whole House, Mr. Chairman, I went through the Fee Schedule and noted that it was a sliding scale. And it ranges from a fee of $80,000 for Band A, up to a fee of $230,000 for Band

D. And again, that is based on your gross written premium.

Mr. Chairman, with those comments, I am happy to listen to other Members.

The Chairman: Thank you, Minister.

Would any other Members like to speak to Insurance Companies (Special Fees) Act, 2010?

I recognise the Honourable Member Mrs. Pat Gordon-Pamplin.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Chairman.

Mr. Chairman, my concern is with respect to clause 3 of the Bill, subsection (2), and that is where a company fails to pay the fee due under this section (that is, if you are in Band A, $80,000, B $130,000, C $180,000, or D $230,000). If you fail to pay the fee by the due date, the company shall pay, in addition, a penalty fee amounting to 10 per cent of the fee due for *every month,* or part of a month, that the fee remains unpaid. Now, this is something that I believe the loan sharks and the Mafia would absolutely love to have as part of their rules and regulations, because this is nothing short of extortionate.

You will understand, Mr. Chairman, that companies actually budget for their cash flow on an annual basis. Nobody would have budgeted at the beginning of the year for this particular thing that is coming down now. To have a 120 per cent possibility of penalties is extortionate and clearly unfair.

I would like to suggest and ask that the Government go back and reconsider that aspect of the penalty. We do not have a problem with the fee, but that aspect of the penalty has got to be above and beyond—10 per cent per month or part thereof. If a company did not have the money at the time . . . because, remember, this is July now. This is due September 30th. If a company has not planned or budgeted to have that extra cash flow . . . Some companies may. I am not suggesting poverty on behalf of Class 4's. But I am saying that this level of extortion is really, really, *really* above and beyond.

I think that we need to consider perhaps 10 per cent per quarter, if need be, which totals 40 per cent for the year if a company is unable to pay within the appropriate time. That would match the penalty that is charged on payroll tax. Payroll tax is due on a quarterly basis, and if you do not have it paid, then there is that 10 per cent penalty.

But for 10 per cent per month for this situation, when you are requiring this amount of money to be paid in a very short order, I believe is grossly unfair, and I think it needs to be looked at.

Thank you, Mr. Chairman.

The Chairman: Thank you, Member,

Would any other Member like to speak to the Bill, Insurance Companies (Special Fees) Act, 2010?

I recognise the Honourable Member Mr. Richards, from Devonshire East.

Mr. Everard T. (Bob) Richards: Thank you, Mr. Chairman.

I just want to add to my colleague's statement about the late fee of 10 per cent. It is clear that if this fee continued on for several months, not only would it be 10 per cent, but it would be 10 per cent compound. That is right. It would be 10 per cent compound. So, on an annual basis, it is much more than 10 per cent.

I just thought I would point that out. It is a very, very high penalty indeed.

The Chairman: Would any other Members like to speak to the Bill?

Minister, would you like to respond?

Hon. Paula A. Cox: Thank you, Mr. Chairman.

Mr. Chairman, there has been consultation on the fees and the penalties. Clearly, the penalty is seen to operate as a deterrent, and we should not act as if there are silos between industry and the Bermuda Monetary Authority.

There is close co-operation, and there certainly have been supervisory colleges and certainly discussions. People pick up the phone and call the relevant offices, and they will also signpost when they are likely to be late.

So I think that, rather than a Simon Legree approach, it has certainly been an approach which is characterised by dialogue and transparency. I certainly take note of the comments made by the Honourable Members, but I think that it is not rooted in reality when you look at the relationship that actually exists between industry and the independent authority.

With those comments, Mr. Speaker, I would like to move that the Preamble be approved and that the Bill be reported to the House.

Thank you.

The Chairman: Thank you. Those in favour of the Motion, say aye. Those against, say nay.

AYES.

The Chairman: The Ayes have it.

[Motion carried: Preamble approved.]

The Chairman: Those who are in favour of reporting the Bill to the House, say aye. Those against, say nay.

The Chairman: The ayes definitely have it. We will report to the House.

Thank you, Minister.

[Motion carried: The Insurance Companies (Special Fees) Act, 2010, was considered by a Committee of the whole House, passed without amendment, and will be reported to the House.]

House resumed at 2:54 pm

[Hon. Dame Jennifer Smith, in the Chair]

REPORT ON BILL

INSURANCE COMPANIES (SPECIAL FEES) ACT 2010

The Deputy Speaker: The Insurance Companies (Special Fees) Act, 2010, has been approved without amendment.

We now move on to the next order of the day, which is the Second Reading of the Traffic Offences Procedure Amendment Act 2010.

Hon. Paula A. Cox: Madam Deputy Speaker, with your indulgence, given the absence, may I move to item 6 at this stage, and then we will do the others? In fact, it seems as if there has been a rethink.

The Deputy Speaker: We are trying to determine if we are doing item 5.

Minister, did you wish to do item 5 or 6? So that is the Second Reading of the Traffic Offences Procedure Amendment Act, 2010.

SECOND READING

TRAFFIC OFFENCES PROCEDURE AMENDMENT ACT 2010

Dr. the Hon. Ewart Frederick Brown: Thank you, Madam Deputy Speaker.

I move that the Bill entitled the Traffic Offences Procedure Amendment Act, 2010, be now read a second time and committed.

The Deputy Speaker: Continue, Minister.

Dr. the Hon. Ewart Frederick Brown: Madam Deputy Speaker, the Bill before the House today seeks to amend the Traffic Offences Procedure Act of 1974 to provide a new process for dealing with parking offences.

Honourable Members will be aware of the parking violation enforcement system, whereby traffic wardens and other authorised person issue parking notices for parking infractions. The current penalty per infraction, Madam Deputy Speaker, is $50, and is due to be paid within seven days or the offender faces court proceedings.

Each year, several thousand outstanding parking notices amount to an estimated $300,000 to $400,000 worth of unpaid fines. The issues identified as contributing to this condition are the AutoCITE handheld ticketing system, an ineffective administrative processes coupled with the current legislation.

The AutoCITE system is the process initiated by traffic wardens who use a handheld AutoCITE device for issuing a parking notice. This notice is not a summons or an information, and must be followed up by the issuance of an information and a summons for it to be enforced through the magistrate's court.

The enforcement process of issuing an information and a summons, as well as the legal requirement for the summons to be served personally on the registered owner of the offending vehicle, requires a considerable amount of human resources to process the thousands of notices that go unpaid within seven-day intervals.

In most cases pertaining to parking offences, the summons is not produced by the police for a magistrate to sign. Where the summons is not produced for signature, it remains unserved, thereby causing the notices to remain unpaid, since at present there is no legal requirement for an offender to appear before a magistrate for the matter to be determined. A proposed automation of processes will create greater efficiency in this area, and financial incentives will no doubt stimulate more timely payments for such offences.

Madam Deputy Speaker, currently the maximum penalty which the Minister of Transport can prescribe to be specified in a parking notice is merely $50. This penalty was established over 35 years ago, when the Act came into force, and has not been increased since. It is now proposed to increase the sum which the Minister may prescribe from (a) $50 to $75, if the penalty is paid within 14 days of the date of issue of the parking notice; (b) $100 if paid after 14 days, but before trial date is set for the offence; or (c) $150 for a fine on summary conviction of the matter should it proceed to trial.

Most notable, Madam Deputy Speaker, an added incentive to pay parking tickets is prescribed; that is, a vehicle licence shall not be issued or reissued where the owner of the vehicle has unpaid parking fines when attending TCD.

Of course, Honourable Members will be aware that the EVR system is designed to detect unlicensed vehicles operating on Bermuda's roads. This, of course, provides for a closed-loop system and will serve to deter those who may be tempted to drive an unlicensed vehicle.

Madam Deputy Speaker, notwithstanding the historic failure to pay parking fines, which results in hundreds of thousands of dollars in fines uncollected each year, steps have now been taken to address this issue. I am advised that the Bermuda Police Services Courts Liaison Unit has assumed ownership of the administration of the parking ticket process by provid-

ing for the preparation of summonses and organising postal and personal service.

Presently, there are six additional temporary support personnel engaged to catch up on the backlog of summonses dating back to June of 2009. Three permanent posts have been identified to take this process forward. These posts are currently in the process of being filled in accordance with the standard recruitment protocol.

Additionally, Mr. Acting Speaker, parking ticket courts have been established to take place after the Traffic Offences Plea Court, each Tuesday and Thursday. Several thousand postal summonses have already been prepared and are being delivered, with approximately 60 per cent of the offenders opting to pay their tickets rather than appear in court. The objective the proposed amendment before the House today, while far more aggressive, is to provide ample opportunity for the offender to pay fines rather than attend court.

Where an offender refuses to pay the prescribed fine (or answer a summons), the court may hear and determine the case *ex parte* and thus rule out the requirement to issue warrants. As in other jurisdictions, it is anticipated that the increased penalty and the obvious discount will act as an incentive for prompt payment of fines in the future. If this is not incentive enough, the threat of not being able to relicence a vehicle should serve as added incentive.

In summary, the proposed amendment will serve to streamline processes associated with parking ticket offences, increase the recovery of fines, and ensure that said recovery occurs in a more timely fashion.

Mr. Acting Speaker, with these brief remarks, I now invite other Honourable Members to participate in this promised discussion.

The Acting Speaker: Thank you, Minister.

Would any other Member like to speak to the Bill, the Traffic Offences Procedure Amendment Act 2010?

I recognise the Honourable Member, Mr. Kim Swan, from St. George's West.

Mr. Swan, you have the floor.

Hon. Hubert (Kim) E. Swan: Thank you, Mr. Acting Speaker.

Certainly I would like the opportunity to speak, ever so briefly, on the Traffic Offences Procedure Amendment Act 2010.

We certainly support measures that will allow Government to more efficiently collect much-needed revenues with regard to parking fines and offences that have been committed.

We do note, and we feel duty bound to say, Mr. Acting Speaker, that this particular legislation cannot be "Mr. Catch-um" for all the hundreds of thousands and millions of dollars that remain outstanding, and we hope that Government will be equally as vigilant on those amounts that are in arrears, and are out there needing collection.

We certainly want to take note of the fact that this will provide an opportunity for greater revenues with the increase in the fines and greater incentive for persons to get on and do the right thing.

We also note, Mr. Acting Speaker, that the change in the Law, which came out in the early tenure of the PLP Government, which allowed persons to drive another person's car, comes into play here. We would urge, Mr. Acting Speaker, that owners of vehicles (cars, in particular, as I was mentioning) pay greater attention to who they allow to drive their car because this particular legislation puts the onus on the owner of the vehicle.

We do know that there are times when someone, quite often a family member, might in fact have your car, and you would have no knowledge of a particular fine. You may be travelling, you may be away on leave. These are all the things that certainly some of my colleagues—particularly those colleagues in the House more learned—would speak to some of the circumstances that may come up in the courts as it relates to this. I am sure some of those circumstances have been the reason why some people have been reluctant to own up to their responsibility and pay the necessary fines that are outstanding.

I am pleased to hear that with the passing of this legislation, it is the intended hope of the Government to make the system operate more efficiently. With the addition of some three posts to administer that, we certainly feel that going forward we should not hear of any arrears being the case.

I would assume that it would cost us in excess of $150,000, probably near $200,000 per annum, minimum, to have three officers, depending on what level of pay scale they would be hired. Maybe the Premier could share with us what range of posts . . . I was just doing at the lower end some of them may be enforcement, but there may be some persons more in the medium range PS scales, or higher range. I do not know. But I would be pleased if the Premier could share with us what PS scales might be associated with these particular posts that he says have already been earmarked. That will give us an idea, come budget time, of what type of additional funding would be required or supplementaries that might be necessary to go along with this legislation.

Also, we hear that there is some $300,000 or $400,000 that goes outstanding. Maybe the Premier (if I missed it, I apologise) might share with us the revenue take on an annual basis of these types of fines and what the projected increase in revenues might be in this regard, notwithstanding that that does not get paid.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Mr. Swan.

Would any other Members like to speak to the Traffic Offences Procedure Amendment Act 2010?

The Chair recognises the Honourable Member, Mr. Mark Pettingill, Warwick West.

Mr. Pettingill, you have the floor.

Mr. Mark Pettingill: Thank you, Mr. Acting Speaker.

Certainly this is a matter that warrants the support of the House. I would say, from a legal and a practical sense, Mr. Acting Speaker, really there is a lot of verbiage (and I say that with no disrespect).

The biggest incentive here for the payment of the fines, of course, is that you are not going to get your licence. Really, I would think that is going to be the one that is going to cause people to step up to the plate more than anything else. That is probably the provision that, had we had it some time ago, we would not have got into the position we are in now, where we do have hundreds of thousands of dollars in outstanding fines and tickets that have not been paid.

The main reason for that, I would suggest, is because of what is encapsulated in clause [3, new section] 17(5) on the summonses. It is a summary offence. So you only have six months to bring it to trial, in any event. Once you go over the six month period, it falls away, and someone cannot be prosecuted. This Act does not change that, nor, with respect, could it really change that; it would create a terrible conflict in laws with regard to summary offences. So that position still remains.

Now, that is a question of backlog, and so on and so forth. I do not know if that will be cleared up or if that mischief will be cured, where the summonses will get out the door in time. They have not in the past, and even with some changes, I do not know if that will occur. As I say, I think what the incentive will be, Mr. Acting Speaker, is when people are aware when they get that parking ticket, *I have to pay this, or when I show up at TCD, I am not going to get my licence.* That is where we are going to see that things are going to pick up. I would anticipate that is what is going to occur.

You are still going to have people, you might have people who are leaving the Island or so on who have cars, and that is going to be a different kettle of fish. But, by and large, that will be the carrot on the stick to get people to act on it.

The presumption is always going to exist (and sensibly so) that the person who owns the car is liable for the offence. It is the same with speeding, Mr. Acting Speaker, and even recently we saw a Supreme Court conviction for conspiracy to commit murder when the evidence was that the people involved in the crime were in a particular car. The presumption was that the owner was the person who was in the car. It did not really go much further than that. But that presumption always exists in law, that the person who owns the vehicle is deemed to be in the vehicle, unless proved otherwise.

I do not think that is necessarily a bad law. That is a valid defence. If one goes away, and you have a house-sitter that runs around and parks all over the place, and runs up a bunch of tickets on your car, well, that is the type of position where you are going to have to have a summons come to effect, because the person may not know about it. They will get served as the owner of the car, they will have to go to court (hopefully that will be within six months—this is when these types of cases will arise) they will have to establish as a defence, *I was not here on that date, and someone else had my vehicle.* And that is how that will have to go, and that is where the six months, necessarily, is going to have to kick in.

So there is still going to be a degree of necessity for improvement in that area. Now that is an administrative position, not a legal one. The administration with regard to this has been . . . again, I am not casting disparaging remarks on what the administration has been doing. I am sure the people have been doing their best. It is just that it got beyond them, and there is a huge backlog, just like there is with the issue of warrants and so on, there is quite a large backlog in the administration of it. So that is an area that desperately needs to be addressed if we are going to make it work going forward in the area where summonses do have to be issued.

As I said, again, the main incentive here is going to be the fact that if you do not pay, and you know you have a ticket, then it is not a question of, *I am going to wait and see if I get a summons*, and so on. You know full well that if you show up at TCD on the next occasion and you have outstanding fines, then you are going to be liable not to get your licence.

As I am on my feet, there are things that may arise that are going to cause some complications defensively with regard to that. When somebody shows up at TCD and is told they are not getting their licence because they have not paid a parking ticket, I can see them saying, *Well, I do not have any parking tickets.* Or, *I do not know about a parking ticket.* The difficulty then is that the only operation to deal with them if they are saying, *I did not have a parking ticket,* is you are going to have to get them into court, and if you are beyond the six months, there may be a little bit of a quagmire that occurs, potentially, in that type of scenario. I could see that type of scenario arising.

And then of course a person would be able to say, on what is called a presumptive position, that they are entitled to have their licence because they in fact have not committed an offence with regard to parking.

So, there may be some issues that are going to arise which are going to present some difficulties even with regard to the incentive that is there. As I say, I think the fact of the matter is that people are going to be aware there is going to be incentive because they are not going to want to go through the hassle of having to deal with all that, because obvi-

ously they will not be getting a licence in the meantime. So I still see it as a means of getting people to the wicket with regard to paying the fines. I think it is probably the most effective way of getting the fines paid.

I did hear the Honourable Premier mention something about going back to June 2009. Again, I do not think that is going to be possible because of the summary offences provision, if summons have not been issued because it would be outside the six-month mark. So I think that if there have not been summonses issued, it may present some difficulty.

[Inaudible interjection]

Mr. Mark Pettingill: Yes. If it had been issued, then yes, you are on the wicket. That is fine; if they had been issued, and you have the service and so on and so forth. If they have not been, of course, even with regard to this legislation under clause [3 new section] 17(5), they will fall away. They would have done under the old law because it is time barred on the six-month provision with regard to bringing a summary offence to trial. Potentially, if they have been issued in that time, then, yes; if they have not been issued, then those ones are going to fall away as well.

It really is a moving forward piece of legislation. As much as we probably would all think that it would be a good idea if we could go back and net those things, that, I do not see, legally, as being capable of occurring.

Having said all of that, and all of that legalese, this is something that has to be supported. We have to try to figure out a way—the best way possible—as to how we can address a situation of non-payment. As I said, I think that the best way in addressing it, and one that needs to be commended with regard to this, is the approach of saying, *Right, if you have unpaid things, then you are not going to get your licence.*

Thank you, Mr. Acting Speaker, those are my comments.

The Acting Speaker: Thank you, Mr. Pettingill.

The Chair recognises the Honourable Member, Mrs. Gordon-Pamplin.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, I just have a couple of questions respecting the tickets issuance.

Firstly, as the Premier indicated, that you will not be able to get a licence for a vehicle renewed while there are outstanding tickets, the question is, from an administrating perspective, will there be the ability at Transport Control Department to collect? If somebody says, *Oh my God, yes, I have this ticket; I forgot it,* will they have to (having shown up at TCD to get their car licensed) leave TCD, go back to the courts, pay to the courts and have it put in the system? Or will there be a computerisation of the process, such that one can say, *Okay, fine. Yes I have two or three tickets out there, I will pay it* and pay for [their] licence at the same time? It just helps to expedite matters.

But if the idea is to make it as painful as possible because you failed to pay . . . then it would just seem to me that if the idea is to make sure you get your money, and somebody is there and willing to pay it, I would take it from them at that point in time. So that is just one concept.

The other question that I have is with respect to the actual offence, the parking offences. Now, some of them are pretty obvious. But this is just for the edification of the public and for a question that has been asked a few times. If somebody double parks, that is pretty obvious. If you park in a loading zone at inappropriate times, that is pretty obvious. But if somebody parks in an appropriate parking spot for longer than the allowed duration, this has become quite a sticking point, because within the municipality of Hamilton, the time for parking is one hour. You put your sticker on for an hour, and an hour and five minutes later this traffic warden comes, and they say, *You parked at 2:10, it is now 3:15. Your time is expired, and therefore I issue a ticket.* That is because they have parked for longer than an hour.

An hour and one minute is longer than an hour; and five hours is longer than an hour. What we are seeing is that if somebody gets a ticket after an hour has expired, and you sort of say, *Okay, I parked longer than an hour, so I will just leave the car there.* Then what you are seeing more of recently are ticketing for second and third offences whereas, if somebody leaves their car in that spot, you might find at the end of the day that they have two or three or four parking tickets, because the traffic warden has come by three times. The car is still in the same space, they still parked longer than 1 hour, but they are now getting parking tickets for the second hour and the third hour and perhaps, the fourth hour.

So the question (for the edification of the public), what exactly is the offence in that respect? Is it more than an hour? Or, is it for one hour at a time, and you get a ticket for more than each hour that you have parked? Because, as I say, five hours is more than an hour, and one hour one minute is more than an hour. It would seem to me that we are compounding a situation where, in fact, there is only one offence that *technically* has been committed. But, people are being penalised for two or three or four offences.

Thank you.

The Acting Speaker: Would any other Members like to speak to the Bill?

I recognise the Honourable Member, G. Gibbons from Paget East.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, I am going to be very brief, I just have a couple of questions.

I was listening to a couple of the Honourable Members who spoke just before me, and I was trying to get a sense of the retroactivity here. I think the Honourable Member, the Premier, when he introduced this, talked about perhaps hundreds of thousands of dollars of fines which are still outstanding. My understanding is that these are fines that are collectable because a summons has in fact been issued.

I would like to get some clarity on that. How much are we talking about, which the Honourable Member, the Premier, feels are in fact collectable here, going back I think until June of last year. Is there a number on that?

The reason I ask that is because I think those of us who have been up in this House and heard similar debates before will recognise . . . I cannot remember the exact figures, but I think numbers of $7 million or $11 million of unpaid parking fines have been thrown out going back a number of years.

I would be curious as to whether the Minister of Transport actually has a fix on how much revenue has actually been lost. I know it is multiple times hundreds of thousands. It has got to be way up in the millions. It would be interesting (I think, my Honourable Colleague, Kim Swan, asked it). Precisely how much are we talking about with respect to what the Government believes is collectible?

I guess the second question regarding retroactivity is, is it going to kick in with regard to not being able to renew your licence only on tickets going forward from the point this Act becomes law? Or, will there be retroactivity concerning outstanding summonses that go back a little ways? The Member may have explained that, but it is a little unclear, and if he could just clarify that. Is there any retroactivity with respect to licence renewal for unpaid parking fines? Does that go back to June of last year, or even before that; does it require a summons?

Thank you, Mr. Acting Speaker.

The Acting Speaker: Would any other Members like to speak to the Bill?

No other Members?

Member in charge?

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Acting Speaker.

I appreciate Members' interest in this, because it is a very practical matter—as small as it might seem—and it is one of those things that I made a personal commitment to get done when I could get it done. That means this week.

[Laughter]

Dr. the Hon. Ewart Frederick Brown: So, it is important for . . . I appreciate the input from Members.

I want to respond first to the comments made by the Leader of the Opposition who did ask the question, whether Government will be sufficiently vigilant to go after this and enforce this system. It is definitely the case. The Government will be, and I trust that that will happen.

The Honourable Member also asked about the PS levels of the new employees. I am not able to give that information because these new employees work for the courts. The courts will determine their PS levels. I can tell you that the posts will be administrative, and therefore you can expect that they will not be at the lower end of the scale.

The Honourable Member also raised an issue about (I think it was Honourable Member, Mr. Pettingill) what will happen when a person goes to TCD and denies having done something. Well, you know, that happens all the time across the system, where people deny. So we are not going to rely on word of mouth. The court, technically, the re-licensing ban will only be applicable if there is already a summary conviction. So the court will communicate by computer with TCD, that this particular vehicle has been banned based upon a conviction. At that point, it is really not up for discussion. When someone reaches TCD, they just find that that vehicle, according to a court order, has been banned.

I think some of the other issues that were raised . . . we did make notes, but I think that at this point, that is about all that we should say about those.

Mr. Acting Speaker, I now move that the Bill be committed.

The Acting Speaker: Any objection that the Bill be committed?

Mr. Wayne Perinchief from Pembroke Central would like to take the Chair.

House in Committee at 3:23 pm

[Mr. Wayne Perinchief, Chairman]

COMMITTEE ON BILL

TRAFFIC OFFENCES PROCEDURE AMENDMENT ACT 2010

The Chairman: Does the Member in charge wish to move the clauses?

Dr. the Hon. Ewart Frederick Brown: Yes, Mr. Chairman, I would like to move clauses 1 through 8.

The Chairman: So moved.

Dr. the Hon. Ewart Frederick Brown: Clause 1, of course, is the citation provision.

Clause 2 extends the definition of traffic officer and, hence, the definition of police officer, to include airport traffic officers. There are currently eight such established posts at the Department of Airport Operations.

Clause 3 repeals provisions of the Act regarding the existing procedure for dealing with parking offences, and replaces them with provisions for a new procedure as follows:

- Section 15 authorises the issue of a parking notice by affixing it to a vehicle or delivering it personally to the person in charge of a vehicle.
- Section 16 provides for the form of a parking notice and what it must include, including provision for payment of a fixed penalty of $75 within 14 days after issue of the notice.
- Section 17 authorises the issue of a summons where the fixed penalty of $75 is not paid.
- Section 18 provides for the form of a summons and what it must include, including provision for payment of a fixed penalty of $100 before the trial date for an offence.
- Section 19 requires a person who does not pay the penalty of $100 before the trial date to appear in court for trial. Where a person fails to appear in response to a summons by post, the court may issue a further summons that is to be served personally. Where a person fails to appear in response to a personal summons, the court may determine the case in the absence of the person.
- Section 20 provides for a fine of $150 on conviction of a parking offence.
- Section 20A requires the court to send a record of conviction to the Director of Transport Control and to the Commissioner of Police.
- Section 20B makes it an offence to remove a parking notice from a vehicle punishable by a fine of $150.

Clause 4 deletes references to provisions that have been repealed and replaced by clause 3.

Clause 5 repeals Schedule 2 of the principal Act, which sets out the form of a parking notice under the existing provisions of the Act. The form of a parking notice and of a summons under the new procedure shall be determined by the Minister, subject to certain mandatory requirements under the new sections 16 and 18 respectively.

Clause 6 amends the Motorcar Act of 1951 and the Auxiliary Bicycles Act of 1954 to add unpaid parking fines as a reason for which the issue or reissue of a vehicle licence shall be refused.

Clause 7 is a transitional provision which provides that for greater certainty the new provisions regarding parking notices and parking offences do not affect parking notices that are issued and parking offences that are committed before the new provisions come into operation.

Clause 8 provides that the Bill, when enacted, comes into operation on a date to be appointed by the Minister, by notice in the *Gazette.*

The Chairman: Does any Member wish to speak to clauses 1 to 8?

I now recognise Honourable Member Mrs. Gordon-Pamplin.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Chairman.

Mr. Chairman, my question is regarding clause 3, and that is the parking notice. In particular, I would ask if the Honourable Premier could confirm . . . because we do have the airport being included in this.

You will recall when we debated the airports parking fees situation that, if one puts a parking ticket on their car for a specified number of days and they do not return to the Island within that period of time because some extenuating circumstance has arisen. When we debated the fees initially, for parking at the airport for parking violations, it was determined that if one remained off Island, they could come back and pay the additional day (two days, or whatever) fee. Now that does not seem to be embraced within the legislation. And, actually, I was caused to have that tested.

So I wonder if the Premier could let us know how that particular aspect of a parking notice will come into play, specifically relating to how it obtains at the airport.

If you go away and you think you are going to be gone for five days, you put five days' worth of parking on, you come back on day six and there is a parking ticket (or clamp, whatever the case might be) on your vehicle. What happens? Can you just go pay the extra day? which is what we said we would do when we debated the legislation, but that is not what is happening.

So I would just like some clarification on that.

The Chairman: Does the Honourable Minister wish to respond?

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Chairman.

The Honourable Member is correct in terms of the airport parking situation that we discussed some time ago. Extenuating circumstances happen on occasion. The law does not prescribe, because every extenuating circumstance is not of the same quality or credibility.

I would imagine that the courts would have a way to adjudicate this matter if there were in fact extenuating circumstances. But within the legislation, it is rather tight; but of course there is justice in the courts, and I would imagine that there would be some flexibility under truly extenuating circumstances.

That does not mean that I wanted to stay in New York one night longer to catch a show. That is a different type of circumstance. But, yes, I am sure that the courts will be lenient in the cases of special circumstances.

The Chairman: Does any other Member wish to speak to Traffic Offences Procedure Amendment Act 2010, clauses 1 to 8?

I now recognise the Honourable and Learned Mr. Crockwell.

Mr. Shawn G. Crockwell: Thank you, Mr. Chairman.

Mr. Chairman, I just have a question on clause 3, dealing with section 17.

Again, we certainly understand what we are trying to achieve here, but the problem is that the mischief that exists today, and the reason why we have this large amount of tickets going unpaid which results in the inability to recover the revenue is that . . . if you look in subsection (2), we know that a summons must be served by a police officer or by a person employed by the Bermuda Police Service.

Just by the sheer volume of parking tickets that must be given on a weekly basis, and then when you look at it on a monthly basis it must be absolutely prohibitive for the Police Service to actually issue out these summonses in time for them to actually meet the six-month criterion. And so, we are still going to have the problem—irrespective of this amendment Act—where the BPS is not going to be able to get the summonses out to the offenders in time for these particular offences to be recorded as a conviction, or for these individuals to be summoned to court to answer to the charge.

So I ask the Minister of Transport, what is being done in order to cure this clear defect? It is those individuals who know. As you can recall some time ago, there were some prominent attorneys who were just blatantly not paying parking fines because they knew of this loophole. If we are unable to fill the loophole, then, at the end of the day, we are not going to see the desired effect.

Thank you, Mr. Chairman.

The Chairman: Does the Minister wish to answer the question or would you defer until later?

Dr. the Hon. Ewart Frederick Brown: Mr. Chairman, I will answer that, because the Honourable Member is raising another point that would be relevant regardless of the specific legislation we are talking about. It has to do with enforcement.

We can stand here in this House, Mr. Chairman, and legislate until we are fatigued. But if, in fact, there is no implementation or if the execution is flawed or meek and mild, then we will not achieve the desired objective.

So, the Honourable Member raises a point. We are taking steps to try to provide as a Government, all of the people and equipment and technology that is needed. But if there is no *will* in the administrative section that is supposed to implement this, it will not happen; and you will be here in a few years talking about more millions of uncollected dollars.

We have a tendency in our country, where when it comes time to play the crunch card, we cannot do it, because it affects our cousin.

[Inaudible interjection]

Dr. the Hon. Ewart Frederick Brown: It is not due to manpower; it is due to the decision not to deploy the manpower because the decision is made that something else is probably more important.

There was a time . . . in fact, as we did our research on this matter, we found out that there was a time when the police did take the steps, and then the police stopped doing something that they had been doing before (for whatever reason) and this situation got worse.

So I take it that the current administration of the BPS will see that this revenue-generating work is important, and will take the necessary steps to implement the system correctly.

The Chairman: Thank you, Minister.

Does any other Member wish to speak to the Traffic Offences Procedure Amendment Act 2010, Clauses 1 to 8?

I recognise the Honourable and Learned Mr. Mark Pettingill.

Carry on, sir.

Mr. Mark Pettingill: Thank you, Mr. Chairman.

It is kind of like being on trial. Sometimes the defence come to you while you are in the middle of the trial and they probably should have come to you beforehand, but that is not always how it works. I am trying to contribute to ways that perhaps we can make this more workable. Two things do come to mind.

As I indicated earlier, I think it is a good provision to have the non-issuance of a licence if you have unpaid fines, but I see complications that may occur with that for the reasons I have said. Particularly in light of the fact that we are saying you have to have a conviction, which means you have to have your summons issued within the six months. You effectively have to have a trial even if you are not there, and you have to be convicted.

It may be a consideration to take on board to say that a licence will not be issued unless a person is of a regularised position, which means that they cannot have an outstanding summons before a licence is issued—not a conviction, but an outstanding summons. So you can have a summons that is posted, or a summons that has been served. It may, I would

think, give this more teeth and address the mischief that we want to address if that provision of the non-issuance of a licence at TCD related to a person who had not regularised their summons position. And I think we could craft that in.

I have one more; let me just build on that a little bit.

It also might assist if we took the provision with regard to the time, in relation to parking offences, and extended it beyond the six months to a year. That might require an amendment, potentially to the Summary Offences Act. Though not necessarily, if we made section 17(3) specific (as it is) with regard to . . . as it relates solely (I am drafting on my feet now) to the issuance of parking offences summons, that period shall be extended to a time of one year.

That is going to do two things to address the mischief: One, it is going to hang out there a lot longer, because I still see where there is going to be a difficulty on that six month position—no matter how efficient we try to make the administration. It has been such a big bubble, that you would have to almost have a vast department, I think, to address it.

So, if we want to address the mischief, why not amend that particular provision and make the issuance of the summons a period of a year? I do not see where that is terribly offensive in addressing this particular mischief with the problem that we have. And it may well ameliorate that position and then tie that in, Mr. Chairman, with the non-issuance of a licence because a driver has not regularised their summons position.

It puts the onus on them to then go and track it down and say, *Hey, I have a summons, do I need to look at this.* They can come back, and either address that or not, or get themselves to court and defend it and so on and so forth. That is going to be out there, they are not going to get their licence until they have regularised their summons position.

That might be a way just to consider giving it more teeth, and I know that perhaps that can be dealt with in another place, but just put those thoughts out for you.

The Chairman: Thank you, Mr. Pettingill.

Minister, do you wish to respond?

Dr. the Hon. Ewart Frederick Brown: Yes, Mr. Chairman.

Taking the last suggestion first, it is something that I think will ultimately have to be taken into consideration, especially if this one does not seem to have sufficient force or sufficient teeth.

On the other piece, though, about starting it on the summons, the problem is that now the offender, so to speak, the owner of the car, is now held hostage to the court's schedule. In other words, his court hearing (or whatever it is) comes up according to the schedule of the court. So he sits there—essentially a victim of circumstances—waiting to find out. I think that is a reasonable argument, given the rest of the problems—that you know better than I do, Honourable Member—that exist in the system.

Again, this is one of those situations where we are first trying to close a door. We are just trying to close a door and stop this outflow.

I neglected to answer the Honourable Member Dr. Gibbons' question about the money, but if you do the math you can find out. It is between $300,000 and $400,000 a year that is not collected. If you want to go back 10 years, it is 10 times that; if you want to go back 20 years, it is 20 times that. That has been about the figure that we do.

But I anticipate, and I would expect, Mr. Chairman, that because of the relatively draconian approach, that this may be described as by some, that it is going to result in more people being more careful about parking, and it is going to result as a deterrent to simply reckless parking. I think when that carelessness evaporates you are going to find that there will be a lighter load for the courts and the police to work with.

The Chairman: Thank you, Minister.

Does any other Member wish to speak to the Traffic Offences Procedure Amendment Act 2010, clauses 1 to 8?

I recognise the Honourable Grant Gibbons.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman.

The Honourable Member's last couple of comments helped me a little bit. What I think is interesting about this is, clearly, there is sort of a front-end on this, which is the carrot part. There are probably people now who actually pay their parking fines when they are supposed to pay them. A lot of businesses use what I will call the front-end part of this. You get your invoice discounted by 10 per cent if you pay within 30 days, and I think obviously that works.

I think what we are spending time on here is looking at what I will call the back-end of this, and I still have a question for the Honourable Member with regard to the retroactivity.

It is clear from clause 7, which is the transitional clause, that sections 15 to 20B of the principal Act do not affect parking notices until these amendments come into place. What I was trying to get a sense of when we were in the whole House (and I will put the question here again, probably in a different way), under clause 6 . . . and I agree with the Honourable Member, Mr. Pettingill. It is clause 6 which affects the ability to re-licence your car if you have an outstanding summons. That is going to have more impact on those that are (I will say) more recalcitrant, and figure they have been able to get away with it up to this point.

What I was trying to get a sense of (and this is the question for the Honourable Member) is . . . clause 6 is not covered by the transitional. So is the Honourable Member saying that, in fact, summonses which are outstanding now, going back to June of last year, will come under this aspect of . . . unless those summonses are dealt with will that effectively make it difficult for you to re-licence your car? In other words, is this clause 6 part, which deals with the re-licensing, is that retroactive to last year to outstanding summonses? Or, is that also just going forward from here?

Thank you.

The Chairman: Thank you.

Does the Member in charge wish to answer this question?

I now recognise the Honourable Mrs. Gordon-Pamplin, who wishes to address this matter.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Chairman.

I just want to go back to the question that I had in the whole House, and that was with respect to parking notice. This is with respect to the duration on a parking ticket fine of a period over an hour. How many possible offences can you get for parking over an hour in any one given day?

Thank you.

The Chairman: Thank you, Member.

Does the Minister wish to answer this question?

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Chairman.

First, to answer the Honourable Member Dr. Gibbons, there is no retroactivity.

Secondly, I suppose 23 is the answer to Mrs. Pamplin's question. Yes, over an hour is over an hour.

[Inaudible Interjection]

Dr. the Hon. Ewart Frederick Brown: It depends when they come along and see you I suppose.

[Inaudible interjection]

Dr. the Hon. Ewart Frederick Brown: Well, it will not be defined here; it will get defined in court if somebody challenges it.

The Chairman: Does any other Member wish to speak to the Traffic Offences Procedure Amendment Act 2010?

If no other Member wishes to speak, I will now ask the Honourable Minister to move the preamble.

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Chairman.

I move the preamble, and I move that the Bill be reported to the House.

Thank you.

The Chairman: Does anyone wish to object to clauses 1 to 8 being moved?

No objection? Thank you.

[Motion carried: Clauses 1 through 8 passed.]

The Chairman: Could you read the preamble again, Minister?

The Motion is now moved. Is there any objection to the [Bill] being reported to the House?

No objection. The [Bill] is now reported to the House.

[Motion Carried: Traffic Offences Procedure Amendment Act 2010 was considered by a Committee of the whole House and passed without amendment.]

The Chairman: If the Honourable Acting Speaker, Mr. Wayne L. Furbert, . . . Thank you, sir.

House resumed at 3:44 pm

[Hon. Wayne L. Furbert in the Chair]

REPORT ON BILL

TRAFFIC OFFENCES PROCEDURE AMENDMENT ACT 2010

The Acting Speaker: Any objections to the Traffic Offences Procedure (Amendment) Act 2010 being reported to the House?

No objections.

[Gavel]

[Motion Carried]

SECOND READING

PROCEEDS OF CRIME REGULATION (SUPERVISION AND ENFORCEMENT) AMENDMENT ACT 2010

The Acting Speaker: Minister of Energy, Telecommunications and E-commerce, Spokesman for Justice, Honourable Member Mr. Scott.

Hon. Michael J. Scott: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, I move that the Bill entitled the Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010, be now read a second time and committed.

The Acting Speaker: Continue, Mr. Scott.

Hon. Michael J. Scott: Mr. Acting Speaker, Government wishes the Honourable House to give consideration in the House to the Bill entitled the Proceeds of Crime Regulation (Supervision and Enforcement) Amendment Act 2010. This Bill seeks to make amendments to the following pieces of legislation: First, the Proceeds of Crime Regulation (Supervision and Enforcement) Act of 2008; secondly, the Bermuda Bar Act of 1974 (hereafter referred to as "the Bar Act"); the Institute of Chartered Accountants Act of 1973 (ICAB Act); the Financial Intelligence Agency Act of 2007 (FIA).

Mr. Acting Speaker, this Bill is part of the ongoing effort to strengthen Bermuda's anti-money laundering and anti-terrorism financing (AML/ATF framework) to ensure a high level of compliance with international standards and, in particular, with certain important requirements relating to designated non-financial businesses and professions (which we will refer to as the DNFBP's) all of which is contained in the Financial Action Tasks Force (FATF) 40 plus 9 recommendations.

Mr. Acting Speaker, the Bermuda Government has consistently reiterated its commitment to ensuring that Bermuda has a strong and effective regime to combat money laundering and terrorism financing. Therefore, as part of the programme to enhance and update its legislative and supervisory framework, a significant overhaul of Bermuda's core Anti-Money Laundering, Anti-terrorist Financing legislation took place in 2007 and 2008. This resulted in, among other things, the greatly improved Proceeds of Crime Act of 1997, and the Anti-Terrorism Financial and Other Measures Act 2004.

Mr. Acting Speaker, the enhancement of the regulatory regime came with the complete update of the regulations in this area with the enactment of the new and more comprehensive Proceeds of Crime, Anti-Money Laundering and Anti-terrorist Financing Regulations of 2008 (which replaced the 1998 Regulations). A significant element of the regulations was the expansion and strengthening of the Customer Due Diligence (CDD) requirements, as well as the provision for a risk-based approach to the implementation of AML/ATF systems and controls.

In addition, sir, the new Proceeds of Crime Regulations (Supervision and Enforcement) Act (SEA) was enacted which implemented a full range of supervisory and enforcement procedures to support the regulations in this Act. The only supervisory authority designated was the Bermuda Monetary Authority (the BMA), which was given responsibility for AML/ATF regulation of financial institutions.

Mr. Acting Speaker, part of this updating involved the establishment of a Financial Intelligence Agency (FIA), a dedicated independent administrative body whose current statutory purpose is to receive, collate, analyse and disseminate suspicious activity reports. This was done through the enactment of the Financial Intelligence Agency Act of 2007.

Mr. Acting Speaker, this Bill will expand the existing supervisory framework to allow for additional supervisory authorities and to facilitate the supervision of a wide cohort of entities. It will therefore create a comprehensive supervisory framework in SEA for all supervisory authorities. Further, although lawyers and accountants who are members of the Institute of Chartered Accountants are specified in the regulations as being "in scope," that provision has not yet been implemented. This Bill therefore seeks to address that by creating the framework for the supervision of lawyers and ICA accountants to allow for the implementation of the regulations in relation to them.

Mr. Acting Speaker, by way of background information, FATF is the intergovernmental body established in 1989, which sets the international standard for combating money laundering and financing of terrorism through its 40 recommendations on money laundering and 9 special recommendations on terrorist financing. As a Member of the Regional Body of Caribbean Financial Action Task Force (CFATF) which is an associate member of the FATF, Bermuda has fully committed itself to implementing the international standard created by the FATF.

Mr. Acting Speaker, the FATF recommendations 12, 16 and 24 deal specifically with Designated Non-financial Businesses and Professions (DNFBP) which are defined to include casinos, real estate agents, dealers in precious metals and stones, lawyers and accountants, and company service providers.

This FATF definition only pertains to lawyers and accountants when they engage in certain kinds of activities, may I stress.

Mr. Acting Speaker, under the recommendations 12 and 16, jurisdictions are required, amongst other things, to apply to DNFBPs the obligations for Customer Due Diligence (CDD) recordkeeping, internal systems and procedures, and suspicious transaction reporting, in the same way as they are made obligatory for financial institutions. In order to make the implementation of these requirements workable, and to monitor compliance by the obligated entities, the FATF also requires, under recommendation 24, that jurisdictions put in place effective systems for monitoring and ensuring that DNFBPs comply with the requirements to combat money laundering and terrorist financing.

The FATF allows jurisdictions the flexibility to determine whether the supervisory functions of certain classes of DNFBPs should be performed by governmental authorities or by appropriate Self-Regulatory Organisations (SROs).

Additionally, although the DNFBPs are not specifically mentioned in recommendation 17, the FATF nevertheless requires jurisdictions to ensure

that effective, proportionate and dissuasive sanctions are available to deal with the DNFBP that fails to comply with the AMLATF requirements.

Mr. Acting Speaker, in 2007 the International Monetary Fund carried out a review of Bermudas AMLATF regime against the FATF requirements. In that review, Bermuda received a non-compliant rating in relation to recommendations 12, 16 and 24. The IMF made a number of recommendations to assist Bermuda in becoming compliant.

Mr. Acting Speaker, the proposed amendments to the Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010 will begin to address the requirements of FATF recommendations 12, 16, 17 and 24, and the relevant recommendations made by the IMF examination team in [their] 2007 detailed assessment report.

Mr. Acting Speaker, the Bill proposes to make the following key amendments:

(a) Proposed amendments to the Supervision and Enforcement Act. It proposed that CIA be renamed as the Proceeds of Crime, Anti-Money Laundering and Anti-Terrorist Financing (Supervision and Enforcement) Act of 2008. This will take account of the wider obligations beyond those under AMLATF regulations; for instance the obligation to file suspicious activity reports under POCA and ATF and the ATF Act.

(b) Under the proposed amendments, the Financial Intelligence Agency will be added as a new supervisory authority with supervisory powers equal to those granted to the BMA under that Act. It is proposed that the Financial Intelligence Agency will be given responsibility for specified sectors that are defined by FATF and as DFNBPs.

The Financial Intelligence Agency will have a similar power to impose civil sanctions on persons to entities supervised by it, except that the maximum threshold for the fines will be at a level deemed appropriate for the types of entities which FIA will be responsible for supervising. This maximum level will be $250,000, as opposed to the maximum $500,000, which the BMA will continue to be able to impose on financial institutions.

Appeals from the decisions of both the Financial Intelligence Agency and the BMA will go to the Appeals Tribunal that is established under CIA.

(c) In addition to those general powers, a proposed new provision in CIA will enable the Financial Intelligence Agency to have the power to issue directives to persons or entities subject to the Financial Intelligence Agency's supervision. Directives may be issued to address a breach of the regulations, or a failure to meet any applicable, fit and proper requirement.

Non-compliance with the directive will give rise to the same civil sanction regime as is available for breach of the AML/ATF regulations. This additional power given to the FIA is similar to powers available to the BMA under the regulatory acts, and which CIA has allowed the BMA to use to assist in enforcing compliance with the regulations.

(d) The Act concurrently allows the Minister of Justice to designate professional bodies as supervisory authorities under section (4)(1). A new part will also be added to CIA to make provisions specifically to give these bodies similar powers for monitoring and supervision, as will be exercised by both FIA and the BMA.

However, the key exceptions are that the maximum civil sanction that can be imposed by a designated professional body will be $250,000 (again, similar to the Financial Intelligence Agency). The designated professional body will have the power similar to that given to the Financial Intelligence Agency to issue directives. And appeals from decisions of the designated professional body will go to the Supreme Court rather than to the Appeals Tribunal, so it is a reversal.

Under the proposed amendments, provisions will be made to recognise two new classes of entities to be brought into scope of the AML/ATF regulations, namely, regulated, non-financial businesses and professions, and regulated professional firms. The former will be supervised by the Financial Intelligence Agency, and they will be listed over time in a new Schedule 2 to CIA. However, it should be noted that this Bill does not propose to add any persons or entities to Schedule 2 at this time.

Regulated professional firms will be supervised by the designated professional body, which will have the responsibility for supervising lawyers and ICAB accountants for compliance with AML/ATF regulations. However, lawyers and ICAB accountants will only be subject to AMLATF supervision in relation to the carrying out of specified activities, and not the full range of their professional services provided by them.

(f) The proposed amendment will also require the Financial Intelligence Agency and any designated professional body to maintain a register of all persons or entities that come within their supervisory purview. The registration provisions will, in both cases, be similar to the existing registration requirements for non-licensed persons who are supervised by the BMA.

No regulated entity will be entitled to carry on business if they are not registered with the relevant supervisory authority. However, an important feature of these new provisions is the transitional arrangement that will allow new regulated entities to continue

to carry on regulated business without being registered for a period of six months after they are added to Schedule 2.

(g) An additional new provision will enable the Financial Intelligence Agency to impose fit and proper requirements on some regulated non-financial businesses and professions at the time of registration and on an ongoing basis. The provision will require that directors, controllers, senior executives, and reporting officers of the specified regulated entities be evaluated against the fit and proper requirements.

Whenever a new class of persons or entities is added to Schedule 2, the Minister will at the same time indicate whether or not that new class of person or entity will be subject to these fit and proper requirements under the Act.

It is expected that these requirements will be imposed on sectors where the AML/ATF risk is deemed to have a potentially more significant impact, both from a domestic and an international perspective.

Proposed amendments to the Bar and ICAB Acts. Mr. Acting Speaker, the proposed amendments to the Bar and ICAB Acts will in many ways mirror one another. Their purpose is to jointly establish a new Barristers and Accountants AML/ATF Board, which, when designated by the Minister of Justice as a designated professional body, will be the supervisory authority responsible for monitoring and enforcing AML/ATF compliance by regulated professional firms. When established, the provisions also require the Board to appoint a supervisor who will carry out the day to day supervisory functions on behalf of the Board.

Proposed amendments to the Financial Intelligence Act. In order to give effect to the proposed amendments to CIA an amendment to the Financial Intelligence Agency Act will prescribe the expansion of the duties of the FIA to include those new supervisory functions. A further proposed amendment of the Financial Intelligence Agency Act will enable the Minister of Justice, by regulations subject to the negative resolution procedure, to prescribe the registration and annual fees to be paid to the Financial Intelligence Agency by regulated non-financial businesses and professions. The fees fixed by these regulations will be used by the Financial Intelligence Agency to defray the cost associated with the discharge of its related statutory functions.

Finally, the amendments propose to include new definitions for the terms “Criminal Conduct” and “Proceeds of Criminal Conduct” for consistency with the Proceeds of Crime Act of 1997. When included within the description of the Financial Intelligence Agency’s intelligence function under the Act, this will lend much-need clarity to the scope of the Financial Intelligence Agency’s responsibilities.

So, with those introductory remarks, Mr. Acting Speaker, I commend the amendments to the House.

Thank you, sir.

The Acting Speaker: Thank you, Minister.

We are debating the Proceeds of Crime Regulation (Supervision and Enforcement) Amendment Act 2010.

Would any other Member like to speak to the Bill?

The Chair recognises the Honourable Member, E. G. Gibbons, Paget East.

Dr. Gibbons, you have the floor

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, I listened carefully to the Honourable Member who was introducing the Proceeds of Crime Regulation (Supervision and Enforcement) Amendment Act, and I guess I would like to start before I get into a bit more substantive aspects of it . . . We have been in this House, I think Honourable Members have been debating Proceeds of Crime Regulation and amending Acts for a number of years now. I think the original stuff went through back in about 1997. And I am sort of curious . . . I sort of see as a bit like a colonoscopy, in a sense. It is expensive, it is unpleasant (in terms of the preparation), and very infrequently do you actually discover anything.

So, I have a couple of questions for the Honourable Member up front—and that is not the last time he had a colonoscopy—but how many suspicious transaction reports have we actually had in the last couple of years? How many cases have actually been prosecuted? How many cases of money laundering have actually gone to a point where there have been convictions? I think it would be interesting, because when you think about this (and I think those Honourable Members who are involved in regulated entities these days) the expense involved now in preparing, training, and dealing with these anti-money laundering and antiterrorist financing issues, is quite large. A lot of people who run businesses out there, particularly regulated or supervised financial institutions, know that this is a very expensive exercise.

Now, I say that, not because I think we, on this side of the House, are going to object to this, because I think we all recognise that these regulations, this amending Act (Proceeds of Crime) generally are necessary to be in compliance with the Financial Action Task Force and what I guess we refer to as international compliance-types of regulations.

I think we are all familiar with the FATF 40 recommendations and the 9 special recommendations. I think we are all familiar with the fact that going back a couple of years when the IMF was here, Government, the BMA and others were called out and found to be not in compliance in a number of respects.

Obviously, there is a cost to that, particularly as a financial jurisdiction.

Nonetheless, I think we have to understand what we are dealing with here, and I think we have to do the best we can, obviously, to be in compliance, but at the same time to recognise that we are dramatically raising the cost of doing business, particularly when we apply it to, not only regulated financial institutions, but others out there.

It is not as though I feel particularly sympathetic towards either lawyers or accountants. They seem to have escaped this for some time. I do think it is a good idea, and I do think it is commendable that the lawyers and accountants have actually come together with Government and have decided to do this as self-regulated entities. I think it makes a lot of sense for them to combine forces and to actually have, I think it was referred to as a new Barristers and Accountant Supervisory Board, to be able to do that. Because, quite frankly, often times in this country lawyers—and indeed accountants—are the first line of defence when it comes to new companies being set up, particularly international or exempt companies being set up, and it is obviously critical that they are paying attention to this as well.

At this point, it has been the banks, insurance companies and investment businesses which I think have borne the brunt of this. Nevertheless, I think it makes sense to extend this to lawyers and accountants, even though we can all depend upon the fact that our fees will now probably go up as they pass on the additional cost of this particular bit of compliance.

Where my concern is, Mr. Acting Speaker, is the second part of this. The Minister was understandably a little vague on that, and that is in extending this to what I will call regulated non-financial business and professions. Clearly, accountants who are members of ICA, and lawyers who are members of the Bar are going to be included in the first part, which is their coming together under their self-regulated bodies to be able to do this. But, when you start to extend this to retailers out there, and I am thinking particularly of those that are selling high-value merchandise like jewellers, when you extend it to real estate agents, when you extend it to (and maybe this is sort of halfway there) business service providers, then it is becoming a more expensive and a more complicated proposition.

I think we in this House ought to be aware that there are a lot of smaller businesses out there that are going to have, I think, a certain amount of difficulty dealing with this. I think the Government is sort of saying at this point, since the Financial Intelligence Agency will be dealing with these non-financial businesses, that there is going to be a discussion about it. Nevertheless, when I think of what we in the insurance business have to deal with in respect to compliance with anti-money laundering and anti-terrorism financing, when you think about some of those smaller businesses out there, and the degree of diligence, and understanding who their customer is, where that money is coming from in terms of purchasing a house or purchasing a car or purchasing an expensive watch (maybe we will not feel quite so sympathetic in that case) there is certainly going to be a lot more time, energy, and expense spent in these areas. I think we need to understand that up front.

So, like a colonoscopy here, you may feel better after you have put it in place, but there is a lot of—

[Inaudible interjections]

Dr. the Hon. E. Grant Gibbons: I was just checking to see whether people are awake, and they have certainly got prurient minds here.

[Laughter]

The Acting Speaker: I had a visual just now. *[Laughs]*

Dr. the Hon. E. Grant Gibbons: I was referring to the actual procedure—not so much the act of what is involved.

So, if I may—

The Acting Speaker: I thought the procedure was the act. *[Laughs]*

Dr. the Hon. E. Grant Gibbons: Mr. Acting Speaker, I think these are important issues here. I guess there are a couple questions that I have, and I am going to have a few more in Committee in terms of how this new Barristers and Accounting Supervisory Board is set up.

It would be useful to know how much work has been done to actually get a sense of how many businesses are we actually talking about here, where it comes to non-financial type of businesses. How many jewellery firms are there out there? How many other higher value retail operations? Has there been any work done to get any sense of the impact of this on the community, on the business sector, which, obviously, has taken certainly a beating under this Government in the last couple of years with additional payroll tax, and just the way the economy has gone.

I guess I would like to get a sense that we are not just putting this in place without having done what I will call the groundwork, the homework required to understand what kind of an impact there has been. Has there been any discussion with some of these firms at this point? Has there been any discussion with the Chamber of Commerce or other small business groups out there to try to get an appreciation for what we are talking about here?

It is very easy for us to stand up here and say, "We are putting this stuff through; it is for our own good, we have to do it." I think it is also important to

recognise the other side of that, which is really that this stuff has a cost; it is going to take a lot of time and effort, particularly for smaller businesses, even for larger businesses, who have to hire additional people and go through the compliance and monitoring and ongoing reporting nature of this. All these issues are critical in terms of how we face that.

So, I guess at this point, with those remarks I am going to take my seat. As I said, there are certainly other questions that I think we will have on this side with regard to actual implementation and the structure and procedures that are going to be set up under this amending Act.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Dr. Gibbons.

Would any other Members like to speak to the Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010?

The Chair recognises the Honourable Member, Mr. Crockwell, from Pembroke West.

Mr. Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, we appreciate that money laundering has become a serious global issue, and we believe that this amendment Act is something that we have to pass, it is something that is unavoidable.

We certainly share the concerns that we raised by the Honourable Member who just took his seat, and I certainly won't regurgitate those concerns, but they do focus on those individuals who are not accustomed to this type of legislation.

The good thing about Members at the Bar is we have had sufficient time to look at the Bill. The Bar has embraced the responsibility that it now has, and as the Honourable Member stated, are working with the accountant community so that we can fulfil our obligation under the Act.

Those retailers who are completely foreign to this type of stuff . . . I mean, if you look at this particular amendment Act, it is very complicated to read, it is very difficult to digest. Certainly, understanding the compliance of these retailers is going to be a significant challenge.

So, with the questions and the issues that the Honourable Member just raised, my question would be, what is the lead time between passing this particular Act and it coming into force? In the interim, what will be done to ensure that these individuals will understand their obligations, the compliance, and what type of flexibility would be given to them so that they do not fall afoul just because of the difficulty and the complexity of this area of the law.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Mr. Crockwell.

Would any other Member like to speak to the Bill?

The Chair recognises the Honourable Member, Walter Roban, Pembroke East.

Hon. Walter H. Roban: Thank you, Mr. Acting Speaker.

Just, of course, to give my voice of support for this Act and what it brings into place as further advancing our Proceeds of Crime regime, which is so important in this current international financial environment.

I did note, and I perhaps should declare my interest. In a previous life, I did work in the area of compliance and having to ensure that a certain local financial institution was clearly following some of the Proceeds of Crime regime and its own internal requirements to do that.

So I do think this is always necessary. It is important that we make sure that what we have in place as a country is up to scratch, and I do think it is important to spend some time bringing in some of these other professions, as it is going to be the accountants and the lawyers, as it is well known that those firms to handle financial transactions or have involvement with. The same requirements that are on other institutions should be on them.

The one thing I think, I am sure, I am certain is likely to happen, since it certainly has been a part of standard of the original Proceeds of Crime legislation, is that there will be guidance notes available to those other groups that are being whipped in. Perhaps lawyers and accountants are already familiar due to their involvement with financial services. But essentially there are guidance notes which are often generated out of amending legislation, or like the principal legislation, which will assist any new groups that become subject to it. Certainly, I am sure that a certain level of guidance will be provided to translate some of the heavier, legal language.

In fact, what you find in the industry is that the guidance notes are much more precisely followed and held than even the principal legislation. Most firms and most institutions and person in the compliance business want to make sure their guidance note are constantly up to date, rather than worrying about the principal legislation as much, because the guidance notes provide the clarity and direction that many want.

So I am certain that the Minister of Justice will assist, along with the regulators, with providing these instruments so that those persons who are newly being subject to them will have their guidance.

Thank you very much, Mr. Acting Speaker.

The Acting Speaker: Thank you.

Would any other Member like to speak to the Bill?

The Chair recognises the Honourable Member, Mrs. Paula Cox, Deputy Premier, Devonshire North West.

Mrs. Cox, you have the floor.

Hon. Paula A. Cox: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, I think we all recognise that transparency, international best practice and governance are increasingly becoming important from an international perspective. Whether we are talking about G8, whether we are talking about G20, or whether we are talking about the OECD. The regulatory norms have become the kings and queens of how jurisdictions that wish to play in the financial services area. That is what is becoming most important.

I think that what can be seen as very complementary and certainly productive in terms of our international business sector and financial services sector, is that passage of this legislation can help to clear away some of the impediments to allowing our legal fraternity and others, since they now will come under the Proceeds of Crime, that it can free them up and also assist us to be much more activist in terms of allowing them a certain amount of latitude dealing with some of the other areas in terms of international business.

Because now that they will come under this Proceeds of Crime Regulation, and now that they have accepted the importance of it, the fact that they have become, sort of I think policemen and vetters it then can help us to further develop some of the sectors of our international business, and also be seen to clear away some of the impediments institutionally that exist.

I think that it is very important as we make changes, that on one hand, while we are seeing the increased controls and governance processes, that as a result of these controls and governance processes, it allows us to be much more liberal in terms of how we see the further development of international business, because we have had the checkers and had the vetting process institutionalised with this Proceeds of Crime Regulation.

So I think, Mr. Acting Speaker, that while you can look at the glass as either half full or half empty—and I have said before that you can be an optimist or a pessimist. But I am a pragmatist and recognise that Proceeds of Crime, anti-money laundering procedures are going to be here with us for the foreseeable future. I think it is important that we also look at how we can maximise and enhance the opportunities for Bermuda as a result, so we ride the wave, so to speak.

I have every confidence that, given the innovation and the level of practice and best practice we have seen already manifest in some of our sectors, that this should help us to raise the bar even further.

Thank you, sir.

The Acting Speaker: Thank you, Honourable Member.

Would any other Members like to speak to the Bill?

No other Members?

Member in charge, do you want to respond?

Hon. Michael J. Scott: Mr. Acting Speaker, I would shortly move to asking that the Bill be committed, thanking all Honourable Members for their support of this POCA 2010 provision and regulations, for dealing with these regulations and being considered in the House. I thank Members for their observations and their support.

May I just say, as we say in court, I adopt the submissions of the Minister of Finance and Deputy Premier, because I believe that those answers directly respond to questions and observations raised by Dr. Gibbons. So I adopt those as a complete and composite answer to the concerns raised about costs of doing business in our country.

Our competitors are . . . if you go online you will see these provisions rife throughout their websites as they get to comply. If we are to remain competitive, the cost of doing it is just part of the cost of doing business, but it does equal compliance with these "kings and queens", as were identified by the Minister of Finance.

I concur with the Honourable and Learned Member, Ms. Cox, that this is the way of the world. So we are doing what we have to do and it will improve our ability to develop business products once we are in a state of compliance with these agencies.

So with that, Mr. Acting Speaker, I move that a message be sent . . .

The Acting Speaker: I thought we were going to deal with the regulations clause by clause and then the House.

Mr. John Barritt: No, point of order, Mr. Acting Speaker, this is an Act. We have to go into Committee.

Hon. Michael J. Scott: Sorry. I move that the Bill be committed. Sorry.

The Acting Speaker: Mr. John Barritt, can you take the Chair?

House in Committee at 4:22 pm

[Mr. John Barritt, Chairman]

COMMITTEE ON BILL

PROCEEDS OF CRIME REGULATION (SUPERVISION AND ENFORCEMENT) AMENDMENT ACT 2010

The Chairman: Members, we are in Committee of the whole House. We are dealing with the Proceeds of Crime Regulation (Supervision and Enforcement) Amendment Act 2010.

The Chair recognises the Member in charge, the spokesman for Justice in the House of Assembly, the Honourable and Learned Member, Mr. Michael Scott.

Hon. Michael J. Scott: Thank you, Mr. Chair.

Mr. Chair, there are some 56 clauses, they are in Parts 1 through 4. I would be happy to move all 56 clauses, or I can move clauses of the first part.

The Chairman: Members opposite have suggested in the Parts. Parts 1, 2, 3 and 4. That will give you an opportunity to take a break and obtain notes where necessary.

Hon. Michael J. Scott: I remind myself that in the first tranche, first 17 clauses, I have an amendment at clause 17. So perhaps it will be appropriate—

The Chairman: You have an amendment?

Hon. Michael J. Scott: I have a couple of amendments.

The Chairman: A couple of amendments. There are copies being distributed as you speak by one of the assistant clerks.

Hon. Michael J. Scott: Clause 1, Mr. Chairman, is the title of the Bill and indicates that the Bill will come into operation on the day, or days, to be appointed by the Minister by *Gazette* notice.

Under Part 1, clause 2 amends the title to the Proceeds of Crime Regulations (Supervision and Enforcement) Act. This Act will be named the Proceeds of Crime Anti-Money Laundering and Anti-Terrorist Financing (Supervision and Enforcement) Act 2008.

The rationale is . . . the name change is made in recognition of the fact that the supervisory framework established under the Act will not only relate to AML/ATF regulations, but also to obligations created under the legislation in the AML/ATF regime. In particular, the Proceeds of Crime Act of 1997 and the Anti-Terrorism (Financial and Other Measures) Act of 2004, require persons to report to the Financial Intelligence Agency suspicions relating to money laundering and terrorist financing respectively.

Clause 3, Mr. Chair, amends section 2 of the principal Act by adding new definitions and updating other definitions to reflect the changes being made in the body of the principal Act. Key definitions include a definition of "competent authority," thus incorporating the BMA and the FIA as competent authorities, and allowing for the recognition of officers of both competent authorities and designated professional bodies.

The new term "regulated non-financial business or profession" is created allowing for such entities to be specified in a new Schedule 2 that is created for that purpose. The definitions for "licensed person" and "non-licensed person" are fine-tuned to replace the word "persons" with the phrase "AML/ATF regulated financial institution."

The new term "firm" and "regulated professional firm" are added and defined, and the latter definition highlights the fact that such firms will be supervised only in relation to specified activities.

Clause 4 amends section 3 of the principal Act by amending a provision that designates the FIA as a supervisory authority in relation to regulated non-financial businesses and professions, and by adding new subsections that provide for co-operation between supervisory authorities in various circumstances, and enables the designation of a supervisory authority in the event that more than one of them is responsible for a regulated person or entity.

Clause 5 inserts a new section 3A, and it makes provision for the Minister of Justice to amend Schedule 2, subject to the affirmative resolution procedure.

Clause 6 does make minor amendments to section 4 of the principal Act by correcting reference to section 3B to take account of the changed numbering of subsections within section 3.

Clause 7 amends the heading of Part 3 of the principal Act by deleting the reference to BMA and replacing it with the words "competent authority."

Clause 8 replaces the numerous references to BMA in specified sections in Part 3 with references to competent authority once again.

Clause 9 amends section 6 by removing the reference to "licensed person" to reflect the fact that description and definition of the term has been changed in the definition section by clause 3 above.

Clause 10 inserts a new section 6A, which stipulates that the Financial Intelligence Agency will exercise the functions described in section 5 of the principal Act in relation to regulated non-financial businesses and professions.

Clause 11 amends section 7 of the principal Act by changing the terminology used to reflect the fact that the requirement to issue a statement of principles pertaining to the discharge of functions under the Act now applies to both the competent authorities in relation to the persons and entities supervised by them.

Clause 12 amends section 8 by repealing [sub]section (1) and replacing it with a new subsection that extends to both competent authorities the requirement to maintain a register and specifies the

class of person and entities that both the BMA and the FIA will be required to register.

Clause 13 replaces the heading for chapter 2, including within the new heading a reference to non-licensed AML/ATF regulated financial institutions and regulated non-financial businesses and professions.

Clause 14 repeals the provision of section 9 of the principal Act and replaces them with the provisions that prohibit both non-licensed AML/ATF regulated financial institutions and regulated non-financial businesses and professions from carrying on business without being registered with the relevant competent authority. A new subsection (2) also makes transitional arrangements to enable such persons and entities to carry on business without being registered for a period of six months after they have been included in Schedule 2.

Clause 15 amends sections 10(3) of the principal Act by including a provision which enables the Financial Intelligence Agency to require applicants seeking to be registered to provide information pertaining to fitness and propriety in any case in which the new provision relating to fitness and propriety apply to them.

Clause 16 amends section 11 of the principal Act by replacing references to the BMA with appropriate references to "competent authority" and also by providing a new ground upon which registration may be refused, namely, if the fit and proper requirements are not met in any case in which they are applicable.

Clause 17, to which the amendment relates, in general principle, adds two new sections to the principal Act . Section 11A contains the fit and proper test, which applies to person who direct or control the business of the regulated non-financial business or profession or who will carry out the functions of reporting officer under regulation 17 of the AML/ATF regulations of 2008. Section 11B provides definitions for "directors," "controllers" and "senior executives" in relation to a regulated non-financial business or profession.

Sir, the amendment to be made within clause 17, which contains a number of sections (11A through to 11G, I believe) will be made to section 11B(3)(e)(ii). And the amendment I propose is to insert after the word "profession" this very tiny word, "or."

The Chairman: Somebody is reading Bills closely.

I think Members do have copies, and it is proposed to amend 11B(3)(e)(ii).

Members have that?

They have it.

[Inaudible interjection]

The Chairman: Yes, that is correct. It really is a typo, I think we could say. Not substantial. So I think we can now include that as amended, we will adopt it.

Hon. Michael J. Scott: Thank you, Mr. Chairman.

Moving to clause 18, thanking Members for that . . .

[Inaudible interjection]

The Chairman: I think he is doing all of Part 1, were you not Minister?

Hon. Michael J. Scott: Yes.

Clause 18 amends section 12 of the principal Act in consequence of the amendment of the definition of "non-licensed person" by clause 3 and the amendments in clause 8 that are consequential to the addition of the definition of "competent authority" to the principal Act.

Clause 19 amends section 13 of the principal Act in consequence of the amendment of the definition of "non-licensed person" by clause 3.

Clause 20 adds a new section 13A to the principal Act, giving the Financial Intelligence Agency the power to issue directives to regulated non-financial businesses or to professions for non-compliance with AML/ATF regulations, or the fit and proper test, where applicable, and provides for notice and appeal of a directive by the FIA to the appeal tribunal.

Clause 21 amends section 14 of the principal Act to provide for the payment to the FIA by regulated non-financial businesses or professions of an application and annual fee, and indicates the manner in which the amount of the fee will be determined.

Clause 22 amends section 15 of the principal Act to extend rights of appeal to regulated non-financial business or professions against decisions of the FIA pertaining to registration.

Clause 23 provides a new heading. (Mr. Chairman, you will stop me when I reach the end of Part 1 because of my brief? Thank you.)

Clause 23 provides a new heading for chapter 3 of Part—

The Chairman: Minister, you can stop at any time if you like. It is a hard slog; so if you want to stop at any time, I do not think Members will object, if you do not want to go all the way to 40 in Part 1.

Hon. Michael J. Scott: All right. I take your point, perhaps I will stop a little prematurely to 40.

But under clause 23—let me get through as many of the clauses as the House will allow—provides for a new heading for Chapter 3 of Part 3 of the principal Act in consequence of the addition of the definition of "competent authority" by clause 3.

Clause 24 amends section 16 of the principal Act to allow an officer of the Financial Intelligence Agency to require information and documents from regulated non-financial business or professions or persons connected with them. The clause also makes

an amendment in consequence of the amendment of the definition of "non-licensed person" by clause 3.

Clause 25 amends section 17 of the principal Act to extend the powers to make site visits of premises being used by regulated non-financial businesses or professions to officers of the FIA.

Clause 26 amends section 18 of the principal Act to extend the provisions of that section respecting the entry to premises under a warrant to entry by officers of the FIA under warrant to premises being used by regulated non-financial businesses or professions.

Clause 17 amends section 19 of the principal Act to make it applicable in respect of regulated non-financial businesses or professions on application by the FIA to the Supreme Court. Section 19 gives the court power to make orders compelling a person or entity to comply with a request for information that had been made by the Competent Authority under section 16, to which they had previously failed to comply.

Clause 28 amends section 20 of the principal Act to extend the civil penalties regime to both competent authorities and to all entities supervised by them. For the FIA, the designated maximum penalty is $250,000.

Clause 29 amends section 21 of the principal Act to allow the FIA to publish a decision to impose a penalty on a regulated non-financial business or profession.

Clause 30 amends section 22 of the principal Act which details the procedure for imposing a civil penalty so that it now applies to regulated non-financial businesses or professions.

Clause 31 amends section 23 of the principal Act to allow persons as well as entities to appeal penalties imposed by both competent authorities.

Clause 32 amend section 24 of the principal Act to extend the provision allowing for the application of penalties towards the cost of monitoring and enforcing of compliance to both competent authorities.

Clause 33 amends the heading to Part 4 of the principal Act to indicate that the provisions relating to the appeal tribunal are now applicable only to Part 3 and not the whole of the Act. Part 3 relates to both competent authorities and the entities supervised by them. Thus the appeal tribunal provisions will not apply to the designated professional bodies or entities supervised by them.

Clause 34 amends section 25 of the principal Act to reflect the fact that the details of the appeal tribunal are addressed in Schedule 1 of the Act, which was previously the only Schedule to the Act.

Clause 35 amends section 26 of the principal Act to extend the powers of the appeal tribunal to review the registration decisions of both the competent authorities and also includes directives issued by the FIA within the scope of matters subject to appeal.

Clause 36 amends section 29(3) of the principal Act to extend the provision to all competent authorities. This section deals with the allocation of cost of appeal to persons who successfully appeal decisions of the BMA and, upon amendment, the FIA as well.

Clause 37 inserts a new Part 4A in the principal Act. Under this Part, new sections 30A to 30M are created, which prescribe the functions, duties and powers of designated professional bodies generally. These provisions generally mirror those that apply to the competent authorities, except that appeals from the decisions of these bodies will lie to the Supreme Court, and the power to enter premises will be done using *ex parte* orders from the Supreme Court rather than a magistrate's warrant.

Like the FIA, designated professional bodies can also issue directives, and the maximum civil penalty which can be imposed on entities supervised by them is $250,000. In addition, section 30N extends statutory immunity to the board of a designated professional body.

Clause 38 amends section 32 of the principal Act by inserting a new paragraph which allows for appropriate disclosure to the Bar Council, the Institute of Chartered Accountants, or other professional body to enable it to discharge its statutory responsibility to maintain professional standards and to discipline members. This will dovetail well with the framework established for the barristers and accountants AML/ATF Board and Supervisor, which will be responsible for specifically supervising AML/ATF compliance of firms while the Bar and the ICAB will be expected to address breaches of AML/ATF requirements by.

This clause also allows the FIA to make appropriate disclosure to foreign authorities that carry out similar functions and have appropriate levels of protection for information disclosed to it.

Clause 39 amends section 33 of the principal Act to criminalise any breach of a directive issued either by the FIA or a designated professional body, as well as non-compliance by regulated professional firms with any requirement imposed under the sections dealing with registration.

Clause 40 amends section 37 of the principal Act to subject to the affirmative resolution process orders made by the Minister to add or remove regulations from the list of regulations, breach of which give rise to civil penalties being imposed on regulated professional firms.

Clause 41 amends section 38 of the principal Act to allow a six-month transition period for the regime for regulated professional firms disallowing criminal proceedings in respect of any contravention of registration requirements which takes place within that period of time.

Clause 42 amends the heading of the Schedule to read "Schedule 1" to allow for additional Schedules.

The Chairman: That is Part 1, Minister, and it is the bulk of the Bill.

The Minister is moving clauses 1 through to 42 of the Proceeds of Crime Regulation (Supervision and Enforcement) Amendment Act 2010, as amended in clause 17.

Does any other Honourable Member wish to speak to clauses 1 through to 43?

The Chair recognises the Honourable Dr. Grant Gibbons, the Member from Paget East.

Dr. Gibbons.

Dr. the Hon. E. Grant Gibbons: Yes, thank you, Mr. Chairman.

Mr. Chairman, I would like to start off with this issue of the register. It is under clause 12. This may be apparent in the legislation now, as you will know, another Member on our side was supposed to do this so I am pinch-hitting a little bit here. With regard to the register, is this essentially a public document that will be available online or is gazetted? How is that going to be handled?

I am particularly interested in the FIA issue here. The BMA obviously has procedures and other things in place to deal with which institutions are licensed and that kind of thing, but I am curious about how the FIA is going to handle this register.

I am over the page to clause 14, which is this requirement for registration. It basically says no licensed AML/ATF regulated financial institution or regulated non-financial business may carry on business unless you are registered, basically, unless you have applied to the competent authority.

It is this issue of transition here, and that is in section 9(2) which is, "Notwithstanding subsection (1) a regulated non-financial business or profession may carry on business without being registered as required by that subsection for a period of 6 months from the day that it is added to Schedule 2 by an Order of the Minister issued under section 3A."

The question I have is, and maybe this is hard to answer at this point, but is the FIA going to be looking at classes of businesses here, or will they be adding individual businesses? Let's take jewellery stores for example. Will all jewellery stores be, essentially, registered and then they have six months with which to comply? Or will the FIA be looking down a list of jewellery stores, perhaps starting with some that they may feel to be, I do not know higher risk, let's say, putting those on, and then others will be added later? I am trying to get a sense of the timing of this particular issue of registration and making sure it is covered.

I have another question with regard to clause 17. This is the issue of fit and proper tests. I think we in the financial services industry are all familiar and have dealt with the issue of having a fit and proper person as an officer or director of a financial institution. But when it comes down to non-financial businesses—like jewellery stores, or real estate agents or high-end retailers of some sort—it obviously becomes more problematic. I guess the question I have here is, there is a certain amount of guidance here in determining whether a person is "fit and proper" and there is also the issue of whether they are under Schedule 2 here, designated as "fit and proper."

We have not heard very much from the Honourable Member as to how a distinction will be made as to whether they could have been put through the test to fit and proper, and on that list on Schedule 2 were not. So I would like to get a clear understanding of whether they need to be under Schedule 2, and that is a little bit later on, but whether they are going to be subject to the fit and proper test. How is that determination going to be made? Is it going to be made on the basis of, for example, a larger real estate agent might be more inclined to be put on the fit and proper test, whereas a single individual operating as a real estate agent may not? Perhaps the Honourable Member could give us a little bit of explanation there as to how this is going to operate in practice.

I guess the other question I have when you get into this is . . . particularly when you get into smaller businesses, maybe you have a sole proprietor, maybe he has a couple of employees and is running a jewellery business. There are a number of criteria here which are listed under this fit and proper test.

Let's suppose somebody is in business already, they are set up, and the FIA suddenly determines that maybe they are not fit and proper. Maybe they have had some past convictions here involving fraud or dishonesty. They are still running a small retail jewellery business. How is the government going to deal with that kind of an issue? Because I think, particularly when you get into smaller businesses, this issue of fit and proper becomes much more problematic.

In a larger business, the BMA can simply say, *Look, we are not going to let that person be the chief financial officer, you are going to have to find another one, we just simply do not think they are fit and proper.* But when you are talking about single proprietor or a small business, it becomes a lot more difficult in terms of how it is applied. I would like to see if I can get more of an explanation from the Honourable Member.

I am going to stop there, Mr. Chairman.

The Chairman: Does any other Honourable Member wish to speak to clauses 1 through to 42 as amended?

The Chair recognises the Honourable and Learned Member, Mr. S. Crockwell, from Pembroke West.

Mr. Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Thank you, Mr. Chairman.

Just one question, I actually raised it in the House, Mr. Chairman, and it deals with clause 1 of the amendment Act, in reference to when the Act will actually come into operation. Clearly, it will be based on when the Minister has it gazetted.

Mr. Chairman, I was just wondering if any consideration has been given to a time period to allow for educating those who are non-financial entities (as my Honourable friend just alluded to), and being able to provide sufficient education to them so they can understand the machinations of this Act and of all the other associated pieces of legislation.

It is very complicated, Mr. Chairman. People are not going to know what "suspicious activity" may be. The consequences of not providing suitable reporting can be very onerous.

So I think it would be prudent—and this is something that has come to us from individuals in their particular industry—they would like to know if there is going to be a time, and if there is going to be any consultation in terms of giving them the proper education and allowing them to understand what would amount to offensive and anti-money laundering activity so that they can be clearly aware of their obligation and duty and not fall foul of these pieces of legislation, and, in particular, this particular amendment Act.

So, I just want to know if any consideration at all has been given to a timeframe to allow for proper education of those individuals, so they can be compliant with the regulations.

Thank you, Mr. Chairman.

The Chairman: The House remains in Committee of the whole.

Does any other Honourable Member wish to speak to clauses 1 through to 42, the Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010, as amended?

No other Members have questions or wish to speak?

The Chair turns to the Minister in charge, the Honourable and Learned Mr. Michael Scott.

Minister, do you wish to reply?

The Minister does. You have the floor.

Hon. Michael J. Scott: Thank you, Mr. Chair.

Taking up questions from the Honourable Member, Dr. Gibbons, about the fit and proper test. The question was, Will it apply broadly to all, for example, jewellery stores, as opposed to some?

The Chairman: Yes, there was that question. I think it was with respect to clause 14, though. Was it not?

[Inaudible interjection]

The Chairman: Yes it is.

I agree, clause 17 is fit and proper, but I thought at one stage you were asking whether people are going to be registered generically or by individual business name. I thought that was with respect . . . yes.

[Inaudible interjection]

The Chairman: No, no I think he has it. He has assistance in the gallery from people who had a hand in drafting this, and I think he is trying to get the reply from those who assisted in the drafting of the legislation.

Minister, are you . . .?

Hon. Michael J. Scott: Yes, I am picking out the answers somewhat carefully.

The Chairman: I can ask the Honourable Member to repeat the question.

You have it?

Hon. Michael J. Scott: No, I have the question. The fit and proper requirements will be applied to sectors that operate as financial intermediaries in cases where there are non-financial institutions and small businesses, such as jewellery shops.

It is true that these sectors are not financial institutions; nevertheless, the businesses can have an impact on the financial sector in that they provide services to assist in entering into the financial sector, or they can assist a client to acquire assets while circumventing the financial sector.

So, CSPs, in particular in cases, act as financial intermediaries in that they assist their clients to access the financial market or to provide them with tools to utilise financial products more effectively. Further, they can impact developments and AML/ATF risk in both the domestic and the international arenas.

So why are we considering applying fit and proper standards to the selected DFNBPs when there is no FATF requirement in place? The FATF does not specifically require that fit and proper standards be applied to DFNBPs. It does require that a jurisdiction evaluate the nature of the AML/ATF risk, then appropriately tailor the AML/ATF regime to effectively combat either money laundering or terrorist financing.

I would like to note that most international financial centres have determined that there is a greater level of potential risk related to corporate service providers, who provide administrative services to legal person on an ongoing basis. Indeed, in many such jurisdictions, such entities are required to be subject to a licensing regime similar to financial institutions. For example, in the UK, the perceived level of risk in this sector has resulted in fit and proper requirements being imposed on such service providers.

In light of all of this, and our commitment to ensuring that our regime will effectively address the

potential risk in this jurisdiction, we expect that it will be determined that entities in this sector should be subject to this additional level of scrutiny.

That is a comprehensive answer to Dr. Gibbons' question about fit and proper tests under clause 17.

Dr. Gibbons also asked about the smaller sole-proprietor (I believe that answer incorporates that) as opposed to the large jewellery store or retail store. You can go to a . . . as Dr. Gibbons asked whether . . . that the impact is going to be greater on the sole proprietor in that there is a heavier impact. I take that point. But I think the answer that I have given addresses how we are going to approach even the case of these regulations applying certainly to the sole-proprietor as well.

As a matter of fact, I think what is coming through is that they can be as causative of risk as the larger retail outlet, so they all fall within the regulation. I am hoping . . . I am going to look to Madam Chief Solicitor for the question that the Honourable Learned Member asked about timing of when these provisions are going to come in.

If you can just . . . October 1st for lawyers, and January 31st for CSPs.

I will now proceed with Part 2.

The Chairman: There were some other questions too, Minister, and perhaps if Dr. Gibbons rises will give you a chance to consult.

The Chair recognises the Member from Paget East, the Honourable Dr. Gibbons.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you.

This one may be a little simpler. I was trying to get an understanding under clause 12, which is the duty to maintain a register, whether that register in the case of the FIA of businesses that are non-financial is going to be a public document and disclosed either on a web-site or gazetted, or whether that is a non-publicly held one.

I do have a follow up question with respect to [clause] 17 and the fit and proper test. I still do not have a very clear sense. It is this distinction of whether a non-financial business will be subjected to the fit an proper test. If you are not subjected to the fit and proper test, then you do not have to worry about who is running it, in other words, who the proprietor is or who the president or the CEO is or whatever else, but if you are subjected then, obviously, there is a great deal more diligence that the FIA will do on you.

I guess what I am trying to get an understanding of here is will the FIA make a decision based on the class of business; will it make a decision based on the size of the business; will it make a decision based on the risk involved in the business?

Just to give you an example, clearly somebody walking into a jewellery store with $10,000 in bills and buying a fancy watch in a small jewellery store is going to have the same issue as if they walked into a large jewellery store. So I guess the question is, will size have anything to do with it, or are there other issues involved here?

Thank you.

The Chairman: Thank you, Dr. Gibbons.

Honourable and Learned Minister, reply?

Hon. Michael J. Scott: Thank you, Mr. Chairman.

To Dr. Gibbons' questions, the fit and proper test will of course apply to retail sectors such a jewellers, and fit and proper tests will apply to classes.

Will not apply?

[Inaudible interjection]

The Chairman: I did too.

Minister, I think it is not going to apply. But we will wait until . . .

Hon. Michael J. Scott: So it does apply to classes, but it will not apply to classes.

It will not apply to jewellery stores, it will apply to classes. All right?

[Inaudible interjection]

The Chairman: I will have to ask the Honourable Member to stand and ask the question so we can all hear it.

The Chair recognises the Honourable Dr. Gibbons from Paget East.

Minister if you would . . .

Dr. the Hon. E. Grant Gibbons: Sorry, Mr. Chairman, just for clarity, what I am asking is, what are the criteria that the FIA is likely to use in determining whether somebody is subject to the fit and proper test?

Is it by class of business? By class of business I mean a jewellery store versus a car dealer—all jewellery stores, all car dealers, or maybe car dealers and not jewellery stores. So that would be by class of business. Or is it going to be determined perhaps on the size of the business and maybe . . . okay, I am getting ahead.

The Chairman: There is definitely some confusion here and it would be good if we could clear it up.

Dr. the Hon. E. Grant Gibbons: Sure.

The Chairman: I think your questions are prompting clarity, but I will turn to the Minister.

Hon. Michael J. Scott: So, if I can attempt to give the clear answer once again.

It is certainly not going to apply to car dealers, jewellery stores, retailers. That is the first clarification. All right?

The test will be applied on a sectoral basis, not from individual to individual. Determinations will be made based on whether the sector is an intermediary to the financial sector. Retail sectors are likely to be caught under this provision. All right?

I thank the AG and the team there for that assistance.

The Chairman: Thank you, Minister.

Your question is answered then?

No questions.

Yes.

So the Minister wishes to move clauses 1 through to 42, as amended in clause 17.

Are there any objections?

Dr. the Hon. E. Grant Gibbons: I beg your pardon. I was sleeping a little bit there.

The Chairman: The Chair recognises the Honourable Member, Dr. Gibbons.

Dr. the Hon. E. Grant Gibbons: I do have another question and it is actually in clause 21.

The Chairman: Clause 21.

Dr. the Hon. E. Grant Gibbons: Yes. And it relates to fees which the Financial Intelligence Agency is going to be allowed to apply on an annual basis to non-financial businesses or professions.

Does the Honourable Member have any sense of what that fee is likely to be at this point, or the range of fees that we are talking about on an annual basis to jewellery stores, real estate agents, and how might that be determined? Thank you.

The Chairman: The Chair recognises the Honourable and Learned Minister, Michael Scott.

Hon. Michael J. Scott: We will have that answer in . . .

[Inaudible interjection]

Hon. Michael J. Scott: No? Not at this point. We are not in a position to advise of the level of fees or the range of fees at this point. Fees will be assessed.

The Chairman: Will be determined.

Hon. Michael J. Scott: I am ready now to move on to Part 2.

The Chairman: Minister, if you will just permit me.

Hon. Michael J. Scott: Sure.

[Inaudible interjections]

The Chairman: I will say again. The Minister is moving clauses 1 through to [42] as amended in clause 17.

All those in favour?

AYES.

The Chairman: All those against?

There are none.

[Gavel]

The Chairman: So approved.

[Motion carried. Clauses 1 through [42], as amended in clause 17, passed.]

The Chairman: Now, Minister, we may proceed to Part 2, clauses 43 through to 47, unless you want to do Parts 2 and 3 together because we are more than halfway through.

Hon. Michael J. Scott: They are getting smaller.

Hon. Michael J. Scott: Thank you, Mr. Chairman. Part 2, the Related Amendments to the Bermuda Bar Act of 1974.

Clause 43 amends section 1 of the Bermuda Bar Act by inserting definitions for AML/ATF Regulations, the new joint Board being established by the Bar and ICAB and regulated professional firms.

Clause 44 amends section 9 of the Bar Act in order to allow the Bar to affix fees to be paid by regulated professional firms to defray the cost of the new Board and to enable the Bar to assess penalties for non-payment of such fees.

Clause 45 creates a new section 9A in the Bar Act which allows for rules to be made under the Bar Act in collaboration with the Council of ICAB regarding operation of the Board, including matters relating to the administration of the budget, the procedures for monitoring and enforcing of compliance, and protocols for addressing issues of non-compliance.

Clause 46 amends section 17 of the Bar Act and prescribes the contravention of AML/ATF regulations by barrister or professional firm is professional misconduct, thus enabling the disciplinary process of the Bar to be brought to bear on such matters.

Clause 47 inserts a new Part 5A in the Bar Act, which establishes the Barristers and Accountants AML/ATF Board. The new sections 25A through 25E deal with the establishment and constitution of the Board itself, the employment and duties of a supervisor and the annual submission of the budget and accounts of the Board to the Bar and ICAB.

Consistent with the framework described in clause 38, this clause requires relevant disclosures by the supervisor to the Bar relating to any improper conduct by its members.

Part 3. Clause 48 through to 50 amend the definition section.

The Chairman: Minister, if I could just get you to pause here.

Hon. Michael J. Scott: Sure.

The Chairman: There is a proposed amendment in clause 47—

Hon. Michael J. Scott: Clause 47. Thank you, Mr. Chairman. I appreciate that.

The Chairman: In section 25C(1). Members have that in front of them. It was part of the omnibus amendments that were presented. If Members will look on page 31, you will see in 25C(1), in line number 4, the words "as defined by" are deleted; on their face, making no sense.

Hon. Michael J. Scott: I thank you, Mr. Chairman. That is precisely the amendment contemplated.

The Chairman: So we are now moving to amend that and include that.

Members understand. Members look agreeable.

You may proceed.

Hon. Michael J. Scott: Thank you. Thank you for that amendment, Mr. Chairman, and I will move you to Part 3. Related Amendments to the Institute of Chartered Accountants of Bermuda Act 1973

Clauses 48 to 50, as I was indicating, amend the definition section and the powers to make by-laws in the ICAB Act and to set up Barristers and Accountants AML/ATF Board in the same manner as done in respect of the Bar Act in clauses 43, 45 and 47, respectively.

Clauses 44 and 46 are not duplicated here because under the ICAB existing legislation, under by-laws, adequate arrangements already exist for the imposition of fees for this purpose and for making breach of the AML/ATF regulations a disciplinary offence for its membership.

Part 4. Related Amendments to the Financial Intelligence Agency Act 2007.

Clause 51 provides further clarification of the FIA Act by adding definitions for "criminal conduct" and "proceeds of criminal conduct" as defined in the Proceeds of Crime Act.

Clause 52 amends section 8 of the FIA Act to allow the Financial Intelligence Agency to receive the fees collected for carrying out its supervisory role.

Clause 53 expands the functions of the Financial Intelligence Agency in section 14 of the Financial Intelligence Agency Act by providing for the Financial Intelligence Agency to act as a supervisory authority for regulated non-financial businesses or professions.

The clause also clarifies the scope of the existing intelligence function being carried out by the Financial Intelligence Agency specifying that it relates to suspected proceeds of criminal conduct, potential money laundering, and potential terrorists financing offences.

Clause 54 amends section 15 of the Financial Intelligence Agency Act to clarify that the Financial Intelligence Agency can issue a notice to freeze funds in relation to suspicious activity reports received concerning the proceeds of criminal conduct.

And clause 55 adds a new section to the Financial Intelligence Agency Act to allow the Minister of Justice to make regulations relating to the application and annual fees to be imposed on regulated, non-financial businesses and professions to defray the cost of carrying out the duties and responsibilities of a supervisory authority.

Clause 56—

The Chairman: Sorry, Minister, we will just pause there to move that amendment to clause 55.

Hon. Michael J. Scott: Amendment, yes.

The Chairman: Clause 55, section 16A. It is a little difficult to pick up at first because it is right at the end of the second line. I believe the words "regulated" and "financial" on to the next line . . . those words are deleted and substituted "regulated non-financial."

So it would then read, *fees to be paid by the FIA by regulated non-financial businesses or professions, as defined by*, et cetera.

And the Minister will move to make that amendment part of the—

Hon. Michael J. Scott: I am glad to make—

The Chairman: —omnibus Bill.

Members understand. Members are agreeable.

You may proceed, Minister.

Hon. Michael J. Scott: Grateful for the Members' agreement to that amendment.

And, finally, clause 56 amends section 18 of the Financial Intelligence Agency Act to allow for disclosures to the Minister of Justice in the discharge of her functions. Thank you.

The Chairman: Schedule 2.

Hon. Michael J. Scott: Schedule 2.

The Chairman: Might as well square the circle.

Hon. Michael J. Scott: All right.

The Chairman: Straightforward. It just establishes—

Hon. Michael J. Scott: Yes, establishes—

The Chairman: —the schedule to which we will have the list of non-financial businesses and professions in column one and in column two those that are required to meet the fit and proper test in 11A.

Hon. Michael J. Scott: Thank you.

The Chairman: Thank you, Minister.

Does any other Honourable Member wish to speak to . . . we are now dealing with Parts 2, 3, and 4, or clauses 43 through to 56, as amended, of the Proceeds of Crime and Regulations (Supervision and Enforcement) Amendment Act 2010.

The Chair recognises the Member from Paget East, the Honourable, Dr. G. Gibbons.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman.

My first question is in regard to clause 47, but to be more specific it is at the top of page 31 and deals with this issue of a supervisor. The Barristers and Accountants AML/ATF Board shall engage a professional legal adviser or accountant with experience in regulatory compliance as Supervisor responsible for assisting the Board to ensure that regulated professional firms do what they need to do under this Act.

I guess, again, just trying to get a deeper appreciation for what kind of a commitment this is. We talk about a supervisor, it is singular. And, I guess, the question I have is, not that I am wishing on either the barristers or the accountants additional costs, but I am wondering whether Government feels that a singular supervisor is able to do all the things listed there under the duties of supervisor, including carrying out on-site inspections and following up with making submissions to the Board, reporting on compliance, or are we talking about a supervisor plus a staff. I guess that is the first question here.

The question is: How, if, for example, under the Expenditure Budget here . . . I guess, how does Government determine whether, shall we say, they are spending enough money or they are doing the job properly? How does that work back into accountability? Again, that is under page 31, which is 25C and 25D.

The other question I have, now that the Minister has corrected this clause 55 on page 38. It is clearer now because, obviously, we are talking about non-financial businesses and professions. The question I have is with respect to fees on financial institutions and in respect to fees on, I guess, the barristers and attorneys. Are those going to be set by negative resolution or are those worked out between the barristers and attorneys and ICAB and their members? How are those fees going to be set? Are those simply agreed or will those come through a more statutory approach?

The Chairman: Do any other Honourable Members have questions with respect to Parts 2, 3, 4 and the Schedule (I should have added that we are doing as well)? And those are clauses 43 through to 56 and the Schedule to the Proceeds of Crime and Regulations (Supervision and Enforcement) Amendment Act, 2010.

Dr. Gibbons has three outstanding questions to which the Minister will wish to reply, I am sure. As he consults with some of the technical staff, including the Attorney General, Senator, the Honourable Kim Wilson, who is in the Chamber this afternoon, and those who have had a hand in drafting the legislation, as we seek some clarity with respect to those three, particular provisions.

The Chair recognises then the Minister in Charge, the Honourable and Learned M. Scott.

Minister Scott, you have the floor.

Hon. Michael J. Scott: Thank you for the wonderful filibuster, Mr. Chairman.

An Hon. Member: A waste of time.

[Inaudible interjections]

The Chairman: All right. We want to hear the Member.

Hon. Michael J. Scott: I thank Dr. Gibbons for those two questions aimed at clause 47. The sector is a small sector, and so the supervisor is going to be able to ensure that the duties contained in clause 47 are discharged. If there is a need for any assistance from the staff working under this supervisor or director, it will be put in place.

Your other question from Dr. Gibbons related to how we will set the fees. It will be by order and so it will be supervised. It will come to the House under a negative resolution, so there will be an opportunity for the House to have an involvement.

Thank you.

The Chairman: Dr. Gibbons, does that answer your questions? There were two or three?

The Honourable Member, Dr. Gibbons, from Paget East has a comment, or questions.

The Chair recognises Dr. Gibbons.

Hon. Michael J. Scott: May I? If Dr. Gibbons would yield. Of course, in connection—

The Chairman: He yields.

Hon. Michael J. Scott: —in connection with those fees, they will be fixed and assessed with the right levels of consultation.

The Chairman: Thank you Minister.

The Chair recognises Dr. Gibbons.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman.

With your indulgence, I was trying to get a sense of . . . I think the Honourable Member said that the fees under clause 55, the non-financial and professions, those will be dealt with by a negative resolution order that comes to the House. Is that what he is saying?

The Chairman: I do not think he used the word "negative resolution." He said it would come to the House and I assume that is either by legislation or affirmative resolution procedure.

Dr. the Hon. E. Grant Gibbons: Well, 16A says by negative resolution. So I was trying to get . . . orders are usually affirmative resolution, I think, aren't they?

The Chairman: Correct.

Dr. the Hon. E. Grant Gibbons: Okay. This says by negative resolution.

The Chairman: That is being confirmed. Yes, Dr. Gibbons, negative.

Dr. the Hon. E. Grant Gibbons: Okay.

The Chairman: So it will only come to the House if a Member brings it up or wants to take it up on the Floor.

Dr. the Hon. E. Grant Gibbons: I understand. But it will be tabled in the House, so that we can take it up?

Okay. I am getting an affirmative nod from the technical offices.

The Chairman: It could be, yes.

Dr. the Hon. E. Grant Gibbons: Okay.

And then with regard to the fees for financial institutions, I believe those come by way of affirmative resolution. Is that correct?

And what about the fees for barristers and accountants? How will those be set?

The Chairman: Do fees for financial institutions go by way of the affirmative resolution procedure?

Dr. the Hon. E. Grant Gibbons: I believe so, but I am asking the question. Do those come by order as well? I think those come to the House in the normal course of, sort of, budget legislation. That is why I am trying to understand why this is negative and, I think, those other ones are positive, or affirmative resolution.

The Chairman: All right.

I am looking to the Minister.

Negative resolution.

[Inaudible interjection]

The Chairman: Yes, with respect to these.

[Inaudible interjection]

The Chairman: With non-financial, he was seeking some confirmation with respect to what is the position with respect to financial institutions.

[Pause]

Hon. Michael J. Scott: It is by . . . it says at 16A it comes by . . . the regulations are subject to the negative resolution procedure, to set the application in annual fees, to be paid by it. So it is a negative resolution procedure as set out in 16A.

The Chairman: For non-financial businesses or professions. And the Honourable Member from Paget East was going . . . okay.

I will recognise the Honourable Member from Paget East and he can speak for himself.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman. Maybe I am not being as clear as I need to be.

I understand that under 16A here, on page 38, non-financial business and professions are dealt with through a negative resolution procedure. I am asking about two other categories.

The other category that I am asking about right now is, How are fees set for barristers and attorneys? Are those dealt with at all through the House? Are those dealt with through any statutory instrument? Or are those dealt with simply within the confines of the Bar Association ICAB? That is question one.

The other question I have—

[Pause]

The Chairman: I think they are trying to get the answer for you.

Dr. the Hon. E. Grant Gibbons: Shall I stop there and then—

The Chairman: No, no, no.

Dr. the Hon. E. Grant Gibbons: Okay. The other question I have is. . . I want to draw a comparison. The BMA now assesses fees for financial institutions. How are those fees dealt with? Are they dealt with through affirmative resolution procedure? Or are they dealt with through negative resolution procedure?

The Chairman: The Chair recognises the Honourable and Learned M. Scott.

Hon. Michael J. Scott: I hear the question with respect to Bar Council and just . . . Bar Council fees are set by the Bar Council. ICAB, same thing, with the accountants. They set their own fees. And we often see them—

[Inaudible interjections]

Hon. Michael J. Scott: No. Unless you are a practitioner, they will be for . . . As for the financial institutions, may I ask Minister Cox, the Minister of Finance, to give an opinion?

Hon. Paula A. Cox: I am not sure of the question, but certainly the insurance fees come to the House.

The Chairman: Thank you, Minister Cox.

The Chair recognised you and I recognise the Member from Paget East, Dr. Gibbons.

Dr. the Hon. E. Grant Gibbons: I think the Honourable Member, Minister of Finance, has made my point.

Why is there a difference? Fees for financial institutions come by affirmation resolution whereas those for the FIA, for non-financial business and professions are by negative resolution. Is that not an inconsistency and should not the House being seeing those as well to make sure that there is appropriate oversight over the setting of those fees?

Thank you.

The Chairman: Chair recognises the Minister responsible, the Honourable and Learned, M. Scott.

Hon. Michael J. Scott: I indicated that they would be by negative resolution, so they will be here. Chair, you very properly recognised too that they will be here for Members. If they wish to take them up, they will be within the House and that is the level of oversight provided of the House over these fees.

The Chairman: Thank you, Minister.

The Chair recognises again the Honourable Member from Paget East—

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman. I do not mean to put too fine a point on it, but, clearly, there are two sets of rules here in terms of how these fees are set. And I think it is a little bit unfair for those who are probably going to be the least conscious of how these fees are going to be accounted for. That is, the non-financial businesses are going to have the least say, at least the House will have the least say, in those fees.

I take the Honourable Member's point that they can be taken up, but we all know that affirmative resolution gets a lot more attention than negative resolution. I will leave it at that.

Thank you.

The Chairman: Thank you. Minister, do you have a reply?

Are there any other questions or comments or concerns from Members?

No other Members wishing to speak. I call on the Honourable Minister to therefore move clauses 43 through to 56 and the Schedule, as amended, in clauses 47 and 55.

Hon. Michael J. Scott: And I do accordingly so move.

The Chairman: The Minister has so moved.

Those in favour?

AYES.

The Chairman: Those against?

There are no Nays. The Ayes have it.

[Gavel]

[Motion carried: Clauses 43 through 56, as amended in clauses 47 and 55, and the Schedule passed.]

The Chairman: The Minister now moves the Preamble and that the Bill reported to the House as amended.

Hon. Michael J. Scott: I move the Preamble and the Bill be reported to the House.

The Chairman: All those in favour?

AYES.

The Chairman: All those against?

There are no Nays. The Ayes have it.

[Motion carried: The Proceeds of Crime and Regulations (Supervision and Enforcement) Amendment Act

2010 was considered by a Committee of the whole House and passed with amendments.]

The Chairman: The Bill will be reported to the House as amended, that is the Proceeds of Crime and Regulations (Supervision and Enforcement) Amendment Act, 2010.

House resumed at 5:24 pm

[Hon. Dame Jennifer Smith in the Chair]

REPORT ON BILL

PROCEEDS OF CRIME AND REGULATIONS (SUPERVISION AND ENFORCEMENT) AMENDMENT ACT 2010

The Deputy Speaker: The Bill, Proceeds of Crime and Regulations (Supervision and Enforcement) Amendment Act, 2010 is reported to the House as approved with amendment.

ORDERS OF THE DAY

CONSTITUTION OF BERMUDA CONSTITUENCY BOUNDARIES ORDER, 2010

[Carried over]

The Deputy Speaker: Next item. Consideration of the Report of the Constituency and Boundaries Commission appointed by His Excellency the Governor on 4th June, 2009, together with the draft order entitled, The Constitution of Bermuda Constituency Boundaries Order, 2010, and statement of reasons for modifications to the report, under the name of the Premier the Honourable Dr. Ewart Brown.

The Chair recognises the Honourable and Learned Deputy Premier, Minister Paula A. Cox.

Minister Cox, you have the floor.

Hon. Paula A. Cox: That matter is carried over, Madam Deputy Speaker?

Madam Deputy Speaker: That is carried over.

Hon. Paula A. Cox: Am I moving on to the item 8?

SECOND READING

GOVERNMENT LOANS AMENDMENT (NO. 2) ACT 2010

The Deputy Speaker: Item 8, the Government Loans Amendment (No. 2) Act 2010 under the name of the Minister of Finance, the Honourable and Learned Member, Paul A. Cox. And the Governor's recommendation has been signified.

Minister Cox, you may proceed.

Hon. Paula A. Cox: Thank you, Madam Deputy Speaker. Madam Deputy Speaker, I move that the Bill entitled, Government Loans Amendment (No. 2) Act 2010, with the Governor's recommendation signified, be now read the second time and committed.

Madam Deputy Speaker, the Government wishes this Honourable House to now give consideration to the Bill entitled, Government Loans Amendment (No. 2) Act 2010. The Bill before the House proposes to amend the Government Loans Act 1978 so as to state clearly that the Government has power to guarantee the debts and other obligations of other third parties and to clarify the meaning of "public debt."

The Government Loans Act 1978 provides for the Government's authority to borrow money. The maximum amount that may be borrowed, the establishment of a sinking fund by which to repay such borrowing and related matters.

Now, Madam Deputy Speaker, Honourable Members will recall that the Government has committed to provide a guarantee in support of the Bermuda Hospital Board's financial obligations related to the contract with the private-sector partnered, design, build, finance and maintain new facilities at the King Edward VII Memorial Hospital site. Honourable Members are advised that the King Edward Redevelopment Project is on schedule, and it is anticipated that the contract and financial close for this project is scheduled to take place in the later part of this year.

Madam Deputy Speaker, the Government guarantee is an important feature of the redevelopment project and the advisors to the Bermuda Hospital Board for the project have indicated to the Ministry that having this amendment approved by the legislature prior to the House recessing for the summer, will clearly establish bidders certainty and confidence with respect to the Government guarantee, in the context of the Hospital Redevelopment Project. To this end, the Ministry of Finance is now introducing this Bill into the Legislature for Honourable Members' deliberations.

At the outset, let me make it abundantly clear that the sole purpose of this Bill is to provide the level of certainty sought by bidders on the Hospital Redevelopment Project; nothing more, nothing less. It is also important to note that the amount charged against the statutory debt ceiling will be exactly the same after this amendment comes into force.

The first part of the amendment is relatively straightforward and inserts a new section into the Act which declares, for the avoidance of doubt, that the Government has power to guarantee the debts and other obligations of third parties. This clarifies the power to guarantee, which was previously implied in the Act. And if our Honourable Members look at the 1978 Act, and look at clause 2, and the authority of the Minister of Finance to borrow, you will see that the

language in this proposal is very similarly mirrored on that clause. In any event, it certainly also enhances transparency, as it requires the Minister of Finance to inform the Legislature as soon as practicable after the execution of a guarantee. And this section matches the requirement in section 2(3) of the primary Act relating to borrowing.

Now the second part of the proposed amendment provides certainty to the meaning of "public debt." And it says public debt is traditionally defined as the borrowings by governments to finance expenditures not covered by current tax revenues. And the proposed amendment is in line with this definition and is consistent with both governmental practice for the last 30-plus years and the intention of Parliament when enacting the Act in 1978.

And, again, if you look at it, it is interesting when you look at 2(a), because we take it for granted that the primary Act, and you see it says in 2(a)(ii) of the primary Act, not the amendment we are dealing with, it says public debt means debt owed by the Government and also . . . if you look at it from that point, we all know what we understand it, and how the legislators at the time would have construed it, but it certainly is sort of a cyclical and also a secular argument because it just says public debt means debt owed by the Government. What we are seeking to do is drill down a little further and clarify it. And, again, with law, and when people are expending a lot of money, they certainly want to make sure that it is clear and fully void of any doubt

So, certainly, Madam Deputy Speaker, currently section 2(a) of the Act provides that the public debt, less the amount of any monies at any time in the sinking fund shall not exceed $1,250,000,000. The section goes on to provide that public debt means (a) debt owed by the Government; and also (b) debt whose payment by some other person is guaranteed by the Government, provided that where that person is owed a money amount by the Government, at any time when such a guarantee is in force, the amount so owed up to the money value of the guarantee obligation shall be disregarded.

And debt does not include any credit facility which is available for drawing which has not actually been drawn. And you will see that language in the primary Act in terms of the aiding facility which is available for drawing but has not actually been drawn.

However, the term "debt" is not defined in the Act which places those dealing or transacting with Government (in this case, we are talking about VHV) in a position of uncertainty, as it could be argued that any obligations, liabilities that are due from Government or from a party whose obligations, liabilities, Government has guaranteed, should be considered debt.

Now, while the statutory definition of debt is not very specific, in the context of the Government Loans Act, the term "debt" should be construed as being defined as "indebtedness for money borrowed" rather "all obligations, liabilities of the Government." Otherwise, all manner of payments due by the Government would need to be counted toward the debt limit; and that is contrary to practice and the statutory intent.

The statute entitled "The Government Loans Act 1978," which suggests that it is meant to cover debt that is the nature of a loan, i.e., indebtedness for money borrowed. Now to address this anomaly, it is proposed to amend the Government Loans Act to define "debt" as the amount of funds that are borrowed by Government in line with international standards.

That is the substance of the amendment, and because it is like, technical, and even though we should be really talking about it in Committee, I thought it was helpful to give the background and to refer to those clauses in the primary Act, so that Members can have a sense of context. And, certainly, from the bidder's point of view, in terms of the Redevelopment Project, we have a significant guarantee and a significant capital cost that is going to be incurred. And certainly the bidders still need to have a level of certainty in order to submit their bids in a timely and assured manner.

That is the background. That is the context. And what we are seeking to do is to make it clear that was has always been the practice and the convention in terms of the Minister of Finance providing guarantees is now, for the avoidance of doubt, set out clearly. And it also is requiring a sort of accountability prism because transparency in terms of any Minister of Finance having to come as soon as practical to the House to disclose any guarantees that have been committed, that is the prong one. Prong two is seeking to define debt as more than just saying that public debt means debt owed by the Government, and making clear as to the fact where this money is borrowed.

And that is the substance of the amendments, Madam Deputy Speaker. And I certainly welcome the contributions by Honourable Members.

The Deputy Speaker: Thank you, Minister Cox.

Does any Honourable Member wish to speak to the motion of the Second Reading of the Government Loans Amendment (No. 2) Act 2010?

I recognise Mr. E. T. (Bob) Richards, the Shadow Minister of Finance and representative for Devonshire East, constituency 11.

Mr. Richards, you have the floor.

Mr. Everard T. (Bob) Richards: Thank you very much, Madam Deputy Speaker.

I do not have much to say. I understand the Minister's presentation and it appears to be a sort of housekeeping thing, particularly for the new project.

If that satisfies them, then I am okay with that. So it does not seem to add anything or subtract anything from the existing state of play as it relates to

definitions, at least our understanding of definitions, of what that is. It has not changed that, I am quite satisfied. So with those few words, I will take my seat.

Thank you.

The Deputy Speaker: Thank you, Mr. Richards.

Does any other Honourable Member wish to speak to the motion?

I recognise the Honourable W. H. Roban, the Minister of Health, and representative of Pembroke East, constituency 15.

Minister Roban, you have the floor.

Hon. Walter H. Roban: Thank you very much, Madam Deputy Speaker.

Again, as been mentioned by the Finance Minister, part of the reasoning for this relates to the [King Edward Hospital] Redevelopment of which the Government is putting forth a guarantee, which clearly demonstrates full commitment to the project and we are certainly happy that the Government is following through with that and it certainly is assisting the bidders with understanding that clearly without any shadow of a legal doubt or otherwise.

Just to ensure that the public is aware that this project remains solidly on time and on budget, as it relates to these preliminary moments prior to the actual breaking of ground of the actual Acute Care Centre, we expect the preferred bidder in the project will be named by September 29th. This process remains on track and that the financial close for that process will end November 29th. So I can assure the public that the project, which essentially the Finance Ministry and the Ministry of Health are working together on many aspects of the project, is happening according to plan and schedule and we are very happy with this and we look forward to this process continuing in the manner and success that it has already been completed.

Thank you very much. And, of course, gratitude to the Ministry for moving quickly to provide this clarification as it certainly brings a level of clarity to the bidders.

Thank you very much.

The Deputy Speaker: Thank you Minister Roban.

Does any other Honourable Member wish to speak to the motion that the Government Loans Amendment (No. 2) Act 2010 be now read a second time?

If not, the Minister in charge may respond if any response is necessary.

Hon. Paula A. Cox: The only response, Madam Deputy Speaker, is to ask that the Bill be committed.

The Deputy Speaker: The Member has asked that the Bill be committed.

I am going to call on the Honourable Member from Hamilton West, constituency 6, the Honourable Wayne L. Furbert, to take the Chair of committee.

House in Committee at 5:37 pm

[Hon. Wayne L. Furbert, in the Chair]

COMMITTEE ON BILL

GOVERNMENT LOANS AMENDMENT (NO. 2) ACT 2010

The Chairman: Minister.

Hon. Paula A. Cox: Mr. Chairman, I would like to move clauses 1 to 3 inclusive.

Clause 1 is self-explanatory; it is the name of the Bill, which is the Government Loans Amendment (No. 2) Act 2010.

Clause 2 inserts a new section 2AA into the 1978 Act, which, for the avoidance of doubt, declares that the Government has power to guarantee the debts and other obligations of third parties. This clarifies the power to guarantee which was previously implied by words in paragraph B of the definition of public debt in section 2A. Subsection (3) requires the Minister of Finance to inform the legislature as soon as practicable after the execution of a guarantee and this matches the requirement in section 2(3) of the primary Act relating to borrowing.

Clause 3 substitutes a new section 2A(2) of the 1978 Act, which revises the definition of public debt so that it makes it, again, very clear what indebtedness and which guarantees are to be counted in the statutory debt ceiling imposed by section 2A(1).

That is the meat of the amendment and hopefully that further clarifies the position.

Thank you, sir.

The Chairman: Thank you Minister.

Would any other Members like to speak to the Government Loans Amendment (No. 2) Act 2010?

Minister?

Hon. Paula A. Cox: Thank you, Mr. Chairman.

Mr. Chairman, I would now like to move the preamble and I would like to move that the Bill be reported to the House.

The Chairman: Those in favour of the motion say Aye. Those against say Nay.

AYES.

The Chairman: The Ayes have it.

Those in favour of reporting [the Bill] to the House say Aye. Those against say Nay.

AYES.

The Chairman: The Ayes definitely have it.

[Motion carried: The Government Loans Amendment (No. 2) Act 2010 was considered by a Committee of the whole House and approved without amendments, and will be reported to the House.]

House resumed at 5:39 pm

[Dame Jennifer Smith, in the Chair]

REPORT ON BILL

GOVERNMENT LOANS AMENDMENT (NO. 2) ACT 2010

The Deputy Speaker: The Bill, the Government Loans Amendment (No. 2) Act 2010, has been reported to the House as approved without amendment.

We will move on.

The next item is the Second Reading of the Motor Car Amendment (No. 2) Act 2010, under the name of the Honourable Premier, the Minister of Tourism and Transport, the Hon. Dr. E. F. Brown.

Minister?

Dr. the Hon. Ewart Frederick Brown: Carried over.

The Deputy Speaker: It is going to be carried over.

The next item is the Second Reading of the—that has been withdrawn.

The next item is number 11, the resumption of the debate on the motion moved by Mr. N. H. C. Simons.

That must be carried over.

The next item is a motion to be moved by Mr. E. T. Richards?

Mr. Everard T. (Bob) Richards: Carried over.

The Deputy Speaker: Carried over, thank you.

We are at the end, are there any third readings?

May I recognise the Honourable and Learned M. J. Scott, the Minister of Energy, Telecommunication and e-Commerce?

Minister Scott you have the floor.

SUSPENSION OF STANDING ORDER 21

Hon. Michael J. Scott: Thank you, Madam Deputy Speaker.

I move that standing order 21 be suspended to enable me to move that the Bill entitled the Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act, 2010 be now read a third time by its title only.

The Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act, 2010, I move that that Bill do now pass.

THIRD READING

PROCEEDS OF CRIME REGULATIONS (SUPERVISION AND ENFORCEMENT) AMENDMENT ACT 2010

The Deputy Speaker: The Minister has moved that the Bill, the Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010, be now read a third time and passed.

Those in favour of that motion signify by saying Aye. Those against say Nay.

AYES.

[Gavel]

The Deputy Speaker: The Bill is passed.

[Motion carried: The Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act, 2010, read a third time and passed.]

The Deputy Speaker: Are there any other third readings?

I recognise the Honourable and Learned Deputy Premier and Minister of Finance, Paula A. Cox.

Minister Cox you have the floor.

SUSPENSION OF STANDING ORDER 21

Hon. Paula A. Cox: Thank you, Madam Deputy Speaker.

I move that standing order 21 be suspended to enable me to move that the Bill entitled the Insurance Companies (Special Fees) Act, 2010, be now read the third time by its title only.

The Deputy Speaker: You may continue, Minister.

Hon. Paula A. Cox: Madam Deputy Speaker, I move that that Bill do now pass.

THIRD READING

INSURANCE COMPANIES (SPECIAL FEES) ACT 2010

The Deputy Speaker: It has been moved that the Insurance Companies (Special Fees) Act, 2010, be now read a third time and passed without debate.

Those in favour of that motion signify by saying Aye. Those against say Nay.

AYES.

[Gavel]

The Deputy Speaker: The Ayes have it. The Bill is passed.

[Motion carried: The Insurance Companies (Special Fees) Act, 2010, read a third time and passed.]

THIRD READING

GOVERNMENT LOANS AMENDMENT (NO. 2) ACT 2010

Hon. Paula A. Cox: Thank you, Madam Deputy Speaker.

Still under the suspension of standing order 21, I would like to move that the Bill entitled the Government Loans Amendment (No. 2) Act 2010, be now read the third time by its title only.

The Deputy Speaker: Continue Minister.

Hon. Paula A. Cox: Madam Deputy Speaker, I move that that Bill do now pass.

The Deputy Speaker: It has been moved that the Bill, the Government Loans Amendment (No. 2) Act 2010, be now read a third time by its title only and passed.

Those in favour of that motion signify by saying Aye. Those against say Nay.

AYES.

[Gavel]

The Deputy Speaker: The Ayes have it. The Bill is passed.

[Motion carried: The Government Loans Amendment (No. 2) Act, 2010, read a third time and passed.]

The Deputy Speaker: Is there another third reading?

Dr. the Hon. Ewart Frederick Brown: Yes, ma'am.

The Deputy Speaker: Continue.

SUSPENSION OF STANDING ORDER 21

Dr. the Hon. Ewart Frederick Brown: I move that standing order 21 be suspended to enable me to move that the Bill entitled the Traffic Offences Procedure Amendment Act 2010, be now read the third time by its title only.

THIRD READING

TRAFFIC OFFENCES PROCEDURE AMENDMENT ACT 2010

The Deputy Speaker: The Honourable Premier, the Minister of Tourism and Transport, has moved that Standing Order 21 be suspended to allow the third reading of the Traffic Offences Procedure Amendment Act, 2010.

Minister you may continue.

Dr. the Hon. Ewart Frederick Brown: The Traffic Offences Procedure Amendment Act 2010, I move that the Bill do now pass.

The Deputy Speaker: It has been moved that the Traffic Offences Procedure Amendment Act 2010, be now read for the third time by its title only and passed.

Those in favour of that motion signify by saying Aye. Those against say Nay.

AYES.

[Gavel]

The Deputy Speaker: [The Ayes have it.] The Bill is passed.

[Motion carried: The Traffic Offences Procedure Amendment Act, 2010, read a third time and passed.]

The Deputy Speaker: Is that the last third reading?

Okay. I will recognise the Honourable Premier.

ADJOURNMENT

Dr. the Hon. Ewart Frederick Brown: Thank you, Madam Deputy Speaker.

I move that the House now be adjourned.

The Deputy Speaker: Umm . . . yes.

Dr. the Hon. Ewart Frederick Brown: Until—

The Deputy Speaker: Friday, right?

Dr. the Hon. Ewart Frederick Brown: Hmm?

The Deputy Speaker: Until Friday.

Dr. the Hon. Ewart Frederick Brown: Until Friday the 23rd.

The Deputy Speaker: So then that's okay, you can just move that it be adjourned.

Dr. the Hon. Ewart Frederick Brown: I move that the House be adjourned.

The Deputy Speaker: Does any Honourable Member wish to speak to that motion?

I recognise Mr. E. T. (Bob) Richards, the Representative for Devonshire East, constituency 11.

Mr. Richards, you have the floor.

BOND ISSUE

Mr. Everard T. (Bob) Richards: Thank you, Madam Deputy Speaker.

I would just like to make a few comments on the recent financing that the Government has made in the Bond market—the International Bond Market. I guess in a press conference I gave some opinions there and I would just sort of like to say some similar things in the House today.

The Government of Bermuda has a AA credit rating and if one is able to compare financings of other AA credits in the markets, you should be able to see whether or not the issue that was issued recently and was oversubscribed by six-fold was indeed in line with other credits of that quality and other countries of that quality. And my research shows some very interesting things.

First of all, I have this printout from Bloomberg Financial Services, which is information on a bond, a ten-year bond issued this year by the Government of Mexico. In fact, the government of Mexico has a rating considerably less than Bermuda—though a much bigger country than us, obviously—but the government of Mexico has a BBB rating, while the Bermuda government has a AA rating.

But, despite the fact that the quality of that credit is considerably less than Bermuda's, that bond is yielding 4½ per cent—considerably less than the bond that was issued recently by the Bermuda Government. So when I stated that I thought that this issue was expensive, this is what I am talking about. You have to compare the issue with others of the same maturity and of the same credit quality.

As I understand it from my contacts in the credit markets, a AA credit should yield about 2½ per cent above the US Treasury Bond. Excuse me, a single-A credit should be yielding 2½ per cent above the US Treasury Bond. And, of course, our credit was AA, so it should be less than that. But in fact that in fact was the spread that we were issued our bond at.

Other evidence to show that this bond was expensive was the mere fact that it was so heavily over-subscribed. I think market participants thought that this was a very generous issue, and I think the public does not understand that generous to investors equals expensive for the issuer. And I think the bond market thought that this was a very generous issue. That is why it was over-subscribed. And, in fact, very shortly after the issue came to the market, the price went up from 100 to 103.

So, all the evidence is there in the marketplace that we paid a little bit too much for this credit, for this bond. And, of course, when you pay too much for credit it all ends up at the feet and in the pockets of the Bermuda taxpayer.

Now, we have had some protestations from the Honourable Minister herself and from the bankers that arranged it. Well, the bankers that arranged it clearly have an interest in making it seem like this was a great event.

But I think the evidence is very clear that we have not exactly distinguished ourselves in this particular bond issue. Investors have, if you like, voted with their feet. The price of the bond has increased. And it is not because there is some love affair with Bermuda by the financial markets—not at all. It is because the interest rate that we put on this was a little bit too high. And, of course, the bond market has made that adjustment that is why the price has actually gone up in the intervening period.

So, just as a footnote to this, Madam Deputy Speaker, we just have to sort of underline the fact that this financing was a result of mismanagement by the Government. You know, if we had managed our affairs a bit better we might not have had to have gone to the market for something this large—

[Inaudible interjection]

Mr. Everard T. (Bob) Richards: What was that by that mutterer?

[Inaudible interjection]

Mr. Everard T. (Bob) Richards: Well, if that were the truth, Member, I would say that. But, I do not say anything that is not the truth.

[Inaudible interjection]

Mr. Everard T. (Bob) Richards: If that Member would like to speak, he will get his turn.

But, I can say that on this matter, we have in fact . . . what we are doing here is a result of the fact that costs are out of control. You know, Madam Deputy Speaker, I sort of mentioned this in Public Accounts Committee and the meeting that we had in public that there appears to be a sort of culture of spending associated with this Government—both on current account and capital account. And that culture has resulted in the ever-increasing appetite for debt.

You know, we have just passed some legislation here that relates to how guarantees are part of public debt. So, in addition to what we have just borrowed here from the bond market . . . well, that is a done deal now. There is nothing we can do about that, other than to point out the mistakes that were made. But there is more coming. That is the worrying thing. There is more coming.

We are having to rebuild our hospital—everybody knows that that has to be done and I think

everybody is on board that that has to be done. But that is going to be done at a tremendous cost. And that cost, by way of guarantee, will also move up the public debt.

So, while the Minister is correct—she is saying that there is nothing inherently wrong with debt. I agree with that that there is nothing *inherently* wrong with debt. But the fact is that one of the most current and pressing ailments in the world economy today is the issue of excess debt. It is bringing countries far bigger, far more diversified, far more powerful than us to their knees. I would not like to see that happen to our precious Island.

And this is why I continue to preach this gospel about fiscal restraint. I continue to preach this gospel because the only way to control it is before it happens. Once it is already spent and the debt is raised, well then, you know, you will continue to be a bigger member of the debtor's club.

And there is no question that this $500 million is not going to get repaid . . . in 10 years I just do not see any possibility of us repaying this. This is what they call a bullet bond. In other words it all comes due at the day of maturity. And while we have a sinking fund in place, I just do not see us having $500 million in our kitty to repay this. The Minister says it will get repaid in time. Well, yes, I guess in time—maybe a long time, maybe the date will be the *Twelfth of Never*. I do not know.

The point is that in 10 years' time I expect this to be refinanced, and I do not know what the conditions, the financial conditions, will be in 10 years. No one knows that. And that was my statement about if it were me, I would be spreading those maturities out to reduce that risk of not knowing what the refinancing conditions are going to be like in 10 years. That is how I would reduce that risk, because there is a risk there. I would reduce that risk that way.

I thought the Minister said that, *Well, nobody else has done that before*—well, I don't care if nobody else has done that before, that is the way I would do it. I am not bound by what people did before. I just know . . . I have been in the financial markets for 30 years and I know that is what I would do to reduce the risk of this Government's borrowing and the risk to the people of Bermuda.

So, you know, we can learn from our mistakes. We can learn by perhaps listening to people you do not want to listen to for various reasons. But the thing is that this could have been handled differently, it could have been handled in a way that would be more advantageous to the public purse and therefore the people of Bermuda. And the people of Bermuda need to know that now.

Thank you.

The Deputy Speaker: Thank you, Mr. Richards.

Does any other Honourable Member wish to speak to the motion to adjourn?

I recognise Mr. D. D. M. Tucker, the Representative for Hamilton South, constituency 7.

Mr. Tucker, you have the floor.

CRICKET MANAGEMENT PRACTICES

Mr. Darius D. M. Tucker: Yes, good evening and thank you, Madam Deputy Speaker.

Madam Deputy Speaker, I am going to speak on a totally different subject. And it is to do with this lovely game we call Cricket.

Madam Deputy Speaker, I find it a bit disturbing in this day and age when we have the Government of the day that every springtime they sponsor through the Department of Youth, Sport and Recreation seminars in regards to organisations learning how to operate and run their affairs—need it be through management—

The Deputy Speaker: Yes.

Mr. Darius D. M. Tucker: —of their finances, how to develop programmes, and this has been going on for some time. And I cannot see how we can have sporting bodies acting and not having any AGMs for 10 years. And to know that it is causing clubs to—

The Deputy Speaker: Yes.

Mr. Darius D. M. Tucker: —not want to participate in history—

The Deputy Speaker: Mm-hmm.

Mr. Darius D. M. Tucker: —is very, very disturbing.

The Deputy Speaker: Mm-hmm.

Mr. Darius D. M. Tucker: I mean, the eastern conference is now about 108?

The Deputy Speaker: Yes, it is about that.

Mr. Darius D. M. Tucker: But 108 years old. And so when you consider that a team is going to boycott a cricket game, and with all the history and notoriety and the fanfare that goes along with the eastern conference which rivals second to Cup Match—and some people even would say is better than Cup Match in terms of family traditions—you know, it just depends on what family you talk about.

[Inaudible interjections and general uproar]

Mr. Darius D. M. Tucker: It just depends on what family you talk about, you know.

But, I would say that to have that game not played on Saturday was a disgrace to Cricket in this country. And for the principle that that particular club

chose to stand on, that is their principle and that is what they believe in. But, we cannot have—

The Deputy Speaker: Yes?

Mr. Darius D. M. Tucker: —Cricket being constantly disturbed because of bad management practices. And we have a governing body and they oversee all Cricket in this country. Even though they do not have the rights of Cup Match, they are the governing body and they sanction that Cricket to be played. They do not have anything to do with the organisation of it or the running of it—

The Deputy Speaker: Mm-hmm.

Mr. Darius D. M. Tucker: —but they sanction for Cup match to be played—

The Deputy Speaker: Yes.

Mr. Darius D. M. Tucker: They sanction for eastern conference to be played and they sanction for central conference and along with western conference. And that governing body is sponsored by the Government of the day, the country, and the people with their taxpayer dollars. And this governing body, I feel in my opinion, should look into this eastern conference affair and any other cricketing body that comes under them and assist them to get the necessary help so that they can get their house in order.

Because what happens is . . . the trickledown effect is that when they now will come to anyone that may be interested in sponsoring them they would say, *Well, hold up I never knew this was going on*. And so that affects sponsorship. That affects any other development of youth programme that may be happening in the Cricket world. Because they are going to say, *Well, hold up now, we have got to make sure that this thing is right.*

And in these days where money is tight, there are entities that are prepared to donate money for various different programmes that are going on in the country, but they want to make sure that they are run right. And I know that we have all the necessary tools in place to assist time and time again. And this is something that I feel is very important because it is just like how a Cup Match is. And I have already spoken on the motion to adjourn about that particular situation and how I feel about that. But these things need to be discussed.

The Deputy Speaker: Yes.

Mr. Darius D. M. Tucker: And they need to be discussed openly and dealt with—

The Deputy Speaker: Yes.

Mr. Darius D. M. Tucker: —because people are being affected, the public is being affected—

The Deputy Speaker: Yes.

Mr. Darius D. M. Tucker: —and this Cup Match issue . . . I mean, I think this is just going a bit too far. It is going a bit too far when you are going to talk about one entity controlling . . . it is going too far.

An Hon. Member: It's a monopoly.

Mr. Darius D. M. Tucker: It is monopolising!

I feel sorry for all the other vendors that have brought in goods and are planning on having Cup Match specials and they cannot even sell their goods—cannot even sell their water, juices or other things. And the prices that they are offering up there are more expensive than you can get from some of these specials that are going at various different entities out here in the public arena.

And it is not fair, because if everybody spreads a little bit of money around, everybody eats. But when it is all going in one basket there is going to be very few that are going to be eating. And it is not fair to the general public and it is not fair to the stores that are out here. And they should be outraged. I mean some of these stores should go to the necessary people and complain about it because it is not right.

I feel that the governing body of Cricket needs to step in and have a look and make sure that these things operate in the best interests of Cricket in general for this country—of course, transparently, and not just for a particular entity, because when one wins we all win. But not one entity should dictate where you buy, what you buy and how much you can consume. It is not fair.

I just hope that the governing body of Cricket—that gets a grant from this Government and from the people of Bermuda—will step in and ensure that Cricket is run properly because if they need help, then the Government of the day also has officers that can assist them to get the job done. Because we have people that are getting paid a very good wage to do the job and there should be no reason why it is not being done correctly in this day and age.

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Mr. Tucker.

Does any other Honourable Member wish to speak to the motion to adjourn?

I recognise Dr. the Honourable Grant Gibbons, Representative for Paget East, constituency 22.

Dr. Gibbons, you have the floor.

BOND ISSUE

Dr. the Hon. E. Grant Gibbons: Thank you, Madam Deputy Speaker.

Madam Deputy Speaker, I am certainly not going to get in the way of that honourable gentleman in the St. George's Cricket Club.

I would like to go back to an issue that my honourable colleague, Mr. Richards, raised a few minutes ago. And I would just like to say that I think that that Honourable Member has it exactly right.

The Government certainly gave away more of the taxpayer's money than they needed to in terms of this bond issue. And he cited a couple of cases. Interestingly enough there was another one that someone drew to my attention today. I think we are all familiar with Charles Schwab. They are floating essentially a $500 million bond issue. They are AA and they are paying a whole 1 per cent less in interest rate than we are.

The interesting thing about the bond issue that we floated, as my honourable colleague has pointed out, it was six times oversubscribed. But he also noted that the value of the bond went up immediately. Let me put that a slightly different way. The value of the bond and the interest rate on the bond work in opposite directions. So, if the value goes up within 24 hours of the actual launch of a bond, it means the interest rate drops.

The interest rate in this particular case dropped a whole 40 basis points—that is .4 per cent from the 5.6 per cent that it was launched at. What does that mean? It means the market, the Bond Market, determined that the interest rate that the Government offered was too high and it dropped by 40 basis points almost immediately.

Why should anybody care whether the interest rate dropped or not? Well, it is very simple mathematics, Madam Deputy Speaker. As you know, we are paying $28 million a year in interest on this particular bond—$280 million over the 10 years of the length of the bond. When something drops immediately, and it drops by 40 basis points, what that translates into is $2 million less a year. In other words, the Government gave away $2 million of taxpayer's money. They did not need to be paying $28 million they only needed to be paying $26 million, and that was determined by the market itself.

So, the issue here I think is pretty straightforward. I think Government obviously was pleased that the issue was well received. I think that they felt that that was a good endorsement. But, Madam Deputy Speaker, when you pay too much for something you are going to get a lot of takers out there. And the Government simply paid too much in interest on this particular bond.

HSBC, as my honourable colleague said . . . of course HSBC is going to say that the rate was right or that they paid the right amount. You would expect them to say that. They have a conflict of interest and, in fact, at least the offering suggested that HSBC made somewhere between $2 million and $2.5 million to simply provide the service of putting it out there.

The question I have for the Honourable Member who speaks for Finance is: Was there any other independent investment banker or bond book runner that they spoke to to make sure the pricing was right on this? Because $2 million a year in savings in this day and age is quite a bit. And when you look at $20 million, over the course of that bond, that is fairly substantial. And I am hoping that it was not HSBC only that provided advice to the Government of Bermuda on this because, clearly, at the end of the day, it is the taxpayer that is going to have to pay this interest and I think we are already paying more than enough through the nose here.

AUDITOR GENERAL BLOCKED FROM GETTING ACCESS TO FINANCIAL SYSTEMS OF MINISTRY OF FINANCE

Dr. the Hon. E. Grant Gibbons: I would just like to switch gears for a second—and this is also a question for the Honourable Member who speaks for Finance. About a week and a half ago we found out that the Auditor General had been blocked from getting access to the financial systems of the Ministry of Finance. The Honourable Member who speaks for Finance, Paula Cox, was away on the day or two before this announcement was made, but I think we on this side of the House were expecting the Honourable Minister of Finance to make a statement essentially setting out the Ministry's position with respect to why the Auditor General—who has a constitutional right to free access to Government's books, systems and essentially records—was blocked.

Now, my question really is since it is our understanding that this discussion with the Auditor General had been going on for some two weeks, clearly it was an issue that had arisen in the Ministry of Finance long before it reached the position it did, which was the Auditor General having to go public to ensure that the Auditor General—as is her constitutional right—had access to these systems.

What is the position of the Minister of Finance on this? Does she agree with the Ministry's position that the Auditor General should have been blocked in terms of the access? Does the Honourable Member feel that the Ministry—her Ministry—made a mistake in this?

Clearly, they reversed position very, very quickly when it went public. But why, why—I have to ask the Honourable Member who speaks for Finance—why was it allowed to get to this point in the first place? Why did the Honourable Member allow her Permanent Secretary—the Financial Secretary—to essentially put this impediment in the place of the Auditor General, thereby incurring a constitutional problem?

All these questions, certainly, have been met so far with absolute silence from the Minister of Finance. I had been hoping the Minister would give a statement last Friday, possibly today. Would the Honourable Member please explain what her position was with respect to this particular issue which I think (as most of us in the community felt) was a very serious issue indeed and strikes at the very core of a free and democratic government system?

Thank you, Madam Deputy Speaker.

The Deputy Speaker: Thank you, Dr. Gibbons.

Does any other Honourable Member wish to speak to the motion that the House do now adjourn?

If not, the House will stand adjourned until Friday next.

[Gavel]

[At 6:09 pm the House stood adjourned until Friday, 23 July 2010.]

BERMUDA HOUSE OF ASSEMBLY

OFFICIAL HANSARD REPORT
23 JULY 2010
10:00 AM

Sitting Number 31 of the 2009/10 Session

[Hon. Stanley Lowe, Speaker, in the Chair]

PRAYERS

[Prayers read by Hon. Stanley Lowe, Speaker]

CONFIRMATION OF MINUTES
16 JULY 2010

The Speaker: Minutes of the 16th of July have been circulated. You should find them on the Honourable Members' desks or in your seat. Minutes of the 19th of July are being deferred.

Is there any objection to the Minutes of 16th of July?

Agreed to.

[Motion carried: Minutes of 16 July 2010 confirmed.]

MESSAGES FROM THE GOVERNOR

The Speaker: There are none.

ANNOUNCEMENTS BY THE SPEAKER OR MEMBER PRESIDING

DEPUTY SPEAKER AND CLERK ATTENDING 35th CPA REGIONAL CONFERENCE IN TRINIDAD

The Speaker: We have a Deputy Speaker in charge of the running of Parliament today, as the Clerk, Mrs. Wolfe, and the Honourable Member from St. George's North, Dame Jennifer Smith, Deputy Speaker, are attending the 35th Regional Conference in Trinidad and Tobago. Other Members in the House are going to be following, I imagine by tomorrow morning, to attend the Regional Conference in Trinidad and Tobago.

The Women's Conference, CWP, is taking place and that is followed by the actual Regional Conference that is taking place in the next day or so. That is being held in Trinidad and Tobago. That is for the information of Honourable Members. And, of course, Mr. Somner is the Acting Clerk today.

APOLOGIES

The Speaker: I have received communication from the Honourable Member, Mr. D. Butler, and from the Honourable Member, Mr. K. Horton, saying that they will not be in attendance at the House today.

APPOINTMENT OF HOUSE MEMBERS TO JOINT SELECT COMMITTEE ON GANGS AND GUN VIOLENCE

The Speaker: Pursuant to the adoption of a Select Committee that was approved by the House a few weeks ago, I wish to appoint the following Members. And it was subsequently changed to a Joint Select Committee having received a request from the other place, the Senate, for some of its Members to be a part of that, and the House agreed that we would form a Joint Select Committee.

I now wish to appoint the following Members: The Honourable Member, Mr. K. Horton; the Honourable Member, Mr. A. DeVent; the Honourable Member, Mrs. L. Foggo; the Honourable and Learned Member, Mr. J. Barritt; and the Honourable and Learned Member, Mr. S. Crockwell from the House.

We will receive a selection of Senators from the Senate subsequently. These are the Honourable Members who are being appointed to the Joint Committee. That Joint Committee is to inquire into the rise of violent crime and gun violence in Bermuda and to inquire into the causes of violent crime and gun violence in Bermuda, to report on the inquiry, and to make recommendations to the House of Assembly so that concrete actions can be taken in a reasonable time and that a report be tabled by the first sitting of Parliament in 2011.

MESSAGES FROM THE SENATE

The Speaker: There are none.

PAPERS AND OTHER COMMUNICATIONS TO THE HOUSE

The Speaker: I am going to take the Honourable Member, Dr. Brown, the Premier. Mr. Premier has the floor.

Mr. Premier?

LEASE AGREEMENTS RELATING TO PARK HYATT ST. GEORGE'S DEVELOPMENT

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Speaker. I have the honour to attach and submit for the information of the Honourable House of Assembly

the Ground Lease Agreements relating to the Park Hyatt St. George's Development presented on CD disk.

[Inaudible interjection]

The Speaker: I think Honourable Members have received it. Yes.

Are there any other communications to the House?

I now recognise the Honourable Member, Mr. D. Burgess. Minister Burgess, from Hampton East, has the floor.

EXTENSION OF LEASE AGREEMENT BETWEEN BERMUDA LAND DEVELOPMENT COMPANY, LIMITED AND IRC SANDYS LIMITED AT DANIEL'S HEAD

Hon. Derrick V. Burgess, Sr.: Mr. Speaker, I have the honour to attach and submit for the consideration of this Honourable House of Assembly a proposal by the Government for an extension of the existing lease agreement between the Bermuda Land Development Company, Limited and IRC Sandys Limited with respect to 7.829 hectares of land situated at Daniel's Head in Sandys, as shown in red on Works and Engineering drawing number 5510-046-362 for the 9 Beaches Resort development in accordance with the provisions of Section 9(3) of the Base Lands Development Act 1996.

The Speaker: Thank you, Minister.

Further?

BERMUDA HOUSING (VESTING OF LAND) ORDER 2010

Hon. Derrick V. Burgess, Sr.: I have another one, yes.

Mr. Speaker, I have the honour to attach and submit for the consideration of this Honourable House of Assembly the Draft Order entitled the Bermuda Housing (Vesting of Land) Order 2010, proposed to be made by the Minister responsible for Public Land under the provisions of section 11 of the Bermuda Housing Act 1980.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister.

Any further communications to the House?

We will move on.

PETITIONS

The Speaker: There are none.

STATEMENTS BY MINISTERS

The Speaker: I now recognise the Honourable Member, Dr. Brown, the Premier.

Mr. Premier has the floor.

NATIONAL SERVICE PLAN

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Speaker.

On February 5th, 2010, this Government, in keeping with its commitment to the people of Bermuda, delivered, on the Throne Speech of November 2009 initiative, when we announced a proposal for a National Service Plan for Bermuda.

Some time has passed since then. So I would like to remind Members that this programme is designed to engage our young Bermudian men and women. The programme encourages our young people, as the future leaders of this country, to contribute to Bermuda's national interest through mentoring our youth and assisting the elderly.

Mr. Speaker, recent acts of antisocial behaviour and of senseless violence, even though displayed and committed by a small segment of our youth, highlight the need to replace whatever negative aspects which may exist in our young people's lives with more positive influences.

This Government believes that our National Service Plan is one way to achieve this goal. In this plan, young adults will serve as resources for those young people who are currently lacking positive role models, as well as offer support to those who may simply need a helping hand.

But before I go on, Mr. Speaker, I would once again like to highlight the consultation document that was made available to the public soliciting their feedback to this Democratic Government. I want to publicly acknowledge and thank all 59 persons who took time out to respond, and I can assure you, Mr. Speaker, that their feedback surely will be considered when completing the final draft.

Mr. Speaker, when you know better, you should do better. When you understand the important role that you play in our society, you conduct yourself with the confidence and dignity for the benefit and betterment of your society.

[Inaudible interjections]

Dr. the Hon. Ewart Frederick Brown: The majority of our young Bermudian adults, including Members opposite, understand this and act accordingly. But, Mr. Speaker, more can be done. We believe that by allowing young adults to share their acquired knowledge, skills, and talents with our younger people, not only will it help them to see themselves differently, but it will empower them.

We need our young people to be prepared for life and to take advantage of the positive things that life has to offer, because not only are they our sons

and daughters, but they are the resources of our future workforce.

Throughout all my travels, Mr. Speaker—and, yes, I have travelled extensively—I have noted that there are many emerging markets. As the world becomes increasingly interconnected, I believe that every young person in Bermuda has the potential to overcome all obstacles and find their niche in these markets, as well as develop a global perspective when conducting business.

This leads me to the purpose of my statement, Mr. Speaker.

I am proud and excited to announce that the Government of Bermuda has been invited to present information on our National Service Plan at the International Association for National Youth Service Ninth Global Conference, which will take place in Alexandria, Egypt, from October 25th to 28th, 2010.

This is a major honour, Mr. Speaker. The Conference is truly international in scope. The organisers have expressed interest in Bermuda's National Service Plan because they are interested in sharing different perspectives on key topics involving youth. Bermuda's National Service Plan would be presented as part of a session on new developments in national youth service policies and programmes that would include examples and perspectives from different countries.

And, Mr. Speaker, I might add at this point that someone other than the Premier will attend this.

[Laughter and inaudible interjections]

The Speaker: Carry on, Premier.

We cannot have those kinds of interruptions.

Dr. the Hon. Ewart Frederick Brown: That is right. Just getting ready for the day.

Mr. Speaker, you may ask yourselves, what is in it for us? Well, I am going to tell you. Because we want our National Service Plan to be the best that it can be, the work already started on our plan must continue. We have already consulted widely with the Bermudian public. Through this initiative, Bermuda's plan will also be shared and critiqued on the international stage. Other nations will review our plan and take away those aspects which are of value to them. And by the same token, our presence at the Conference allows us to review the plans of other countries and compare ourselves.

This is an excellent opportunity for us to identify what we are doing right and what we can improve upon. Every young person should be able—no, Mr. Speaker. Every young person *must* be able to pursue his or her dreams, whatever those dreams may be. This Government believes our young adults, through our National Service Plan, would provide a means for making this possible.

I will end with a quote by President Barak Obama, who said, and I quote: "It is only when you hitch your wagon to something larger than yourself that you will realise your true potential."

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Premier.

Any further Ministerial Statements?

I now recognise the Honourable Member, Mr. G. Blakeney.

Minister Gene *[sic]* Blakeney, from Devonshire North Central, has the floor.

Minister?

Hon. Glenn A. Blakeney: Thank you, Mr. Speaker. That is Glenn, not Gene.

[Laughter]

CENTRAL AMERICAN AND CARIBBEAN (CAC) GAMES

Hon. Glenn A. Blakeney: But it is the same DNA pool. But that is okay.

Good morning, Mr. Speaker, and colleagues.

Mr. Speaker, I rise today to provide this Honourable House and the people of Bermuda an update on the accomplishments of the Bermuda contingent at the Central American and Caribbean, or CAC, games, which are presently being held in Mayaguez, Puerto Rico (some three hours drive from San Juan, the capital).

Mr. Speaker, the opening ceremonies were scheduled to be held last Saturday, the 17th of July 2010, unfortunately, due to the series of tornadoes which touched down in the area causing serious damage to the stadium, the lighting, and much of the scaffolding, the ceremonies were postponed until the following day, and that was the Sunday.

Due to this fact, only a few members of the Bermuda contingent were able to attend the opening ceremonies. The bowlers and shooters were housed in Salinas, about two hours away, and were unable to attend as they had to compete at 8:00 am the following morning, which was on the Monday.

Mr. Speaker, the opening ceremony was fabulous, colourful and action packed, as there were approximately 700 participants and approximately 14,000 spectators. The Bermudians who participated included Chef-de-Mission, Donna Watson, who is also the President of the Bermuda Track and Field Association, and five persons from the Bermuda Amateur Swimming Association. Mr. Roy-Allen Burch, I am proud to say, was the flag bearer.

Mr. Speaker, I am pleased also to inform you and this Honourable House that I was personally able to attend the swimming, bowling, and shooting competitions before returning to Bermuda yesterday.

I want to offer congratulations to Damien Matthews, our own son of the soil, who won bronze in bowling; to Delmont Tucker, who placed fourth; and to June Dill, the top Bermudian female bowler, who placed 17th. Damien continues to bowl well and is a hopeful for the Masters competition which takes place on the final day of bowling. I also offer my heartiest congratulations to Mr. Ross Roberts, who won a bronze medal in shooting.

Bermuda's top swimmer, Keira Aitkin, who is currently the Female Athlete of the Year, narrowly missed out on a medal in the 100-metre backstroke when she placed fourth. She had earlier gained a fifth place in the 50-metre back stroke. Thus far, the only other Bermudian to final is Roy-Allan Burch, who finished seventh.

Mr. Speaker, before I conclude, I want to mention that the hockey competition has begun and that the competitors in boxing, sailing, track and field, and gymnastics are now arriving and will compete next week.

I want to wish all the competitors well in the remainder of the competition, and will update you as I get more results from the competition.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister Blakeney.

Any further Ministerial Statements?

I now recognise the Honourable Member, Mr. W. Roban.

Minister Roban, from Pembroke East, has the floor. Minister?

MINISTRY OF HEALTH ACHIEVEMENTS IN FISCAL YEAR 2009/2010

Hon. Walter H. Roban: Thank you, Mr. Speaker, honourable colleagues.

It was in July of 2009, just over a year ago, that we lost the Honourable Nelson Bascome, JP, MP, our friend and colleague. Mr. Speaker, that also represents the date of my appointment as Minister of Health. On this, the one-year (or so) anniversary of those events, I think it is fitting that I provide an overview of sorts of the achievements of the Ministry of Health during that period.

Mr. Speaker, it is certainly detailed. I am extremely pleased with the progress made by this Ministry to meet the Government's mandate to provide regulatory responsibility and to deliver and oversee the provision of health services to the community of Bermuda.

I must, Mr. Speaker, give a sincere, heartfelt thank you to the team under the Ministry and all those bodies and persons who work under the Ministry, not just the Ministry office, who appeared to not skip a beat as they had to transition from the shocking departure of one Minister to myself. They have performed with distinction. And I have to publicly give them their due and thank them for their skill in handling what was certainly a difficult time for them, and to have continued their sterling work.

Mr. Speaker, time certainly would not allow me to share every activity we have undertaken. But please allow me a moment to provide you with just some of the highlights.

Mr. Speaker, you will recall that a Throne Speech initiative for the establishment of a National Health Strategy for Bermuda has been announced. The Ministry is currently meeting with key stakeholders to develop a strategy which will provide the framework within which all entities in the health care sector will operate. It is anticipated that the public consultation on the contents of the plan will commence at the end of this calendar year.

Mr. Speaker, this Honourable House has considered amendments to the Nurses Act, and the Nurses Rules, and Optometrists and Opticians Regulations have also been gazetted. All of these legislative provisions align these services with international best practice. Several other pieces of legislation, including proposals for complementary and alternative medicine, regulations for health care professional providers, funeral directors, discipline and appeals are presently at various stages of completion between the Ministry and the Attorney General's Chambers.

Mr. Speaker, a Department of Health Pandemic Committee successfully coordinated the Department's response to the H1N1 pandemic. Situation updates were provided to the public on a regular basis, and the Epidemiology and Surveillance Unit at the Community Health Nursing Service worked effectively with the Island's physicians to provide management and follow-up to all identified cases.

The Health Promotions Office published and distributed over 800 calendars to focus on healthy behaviours and promote wellness. The Office continued to conduct health information campaigns via radio. I am sure we have heard "Healthy People and Healthy Communities" adverts, Mr. Speaker, and adverts on obesity, healthy living, HIV and AIDS. And all of these continue to be on the media.

As part of Public Health Week, the Department awarded the Public Health Recognition Award 2009 to the Bermuda Diabetes Association and the Public Health Professional Award to Dr. Joseph Froncioni in recognition of their outstanding contributions to public health on the Island.

The Department of Health held a "Healthy Schools Award Ceremony" to recognise schools that promote a healthy learning environment.

There was also recognition of Public Health Week in April, HIV/AIDS Awareness in June, World AIDS Day in December, World Breastfeeding Week in August, and National Wellness Day.

Mr. Speaker, The Environmental Health Section focused on amendments to legislation to ensure that multi-dwelling units housing are in compliance

with the Public Health Act and other relevant legislation. Cabinet has approved these proposals, and drafting instructions are underway.

The Environmental Health Section also worked with the Department of Financial Assistance and other Governmental agencies to ensure that standards of care in child care centers and with child care providers are kept high.

Mr. Speaker, a project officer was assigned to coordinate strategic planning for Lefroy House and the Sylvia Richardson Care Facility to ensure consistent operational practices at resident-centred care. To that end, staff at both facilities received training in the Eden Project Philosophy, and selected staff have been trained and certified as Eden Associates.

Mr. Speaker, you will also recall that as a result of the work on diabetes, the task force provided "Guidelines for Diabetes Care in Bermuda 2009," along with a "Diabetes Passport" that were produced and presented to Members in this House as well.

The Oral Health Section provided comprehensive oral health services to children and adolescents 0–18, seniors, special patients, and prisoners, including:

- Restorative care
- Preventive and hygiene services
- Interceptive orthodontics
- Dental surgical services, and
- Comprehensive care under general anaesthesia for appropriately selected patients.

In addition, they conducted a successful oral health education campaign during February 2010 (Oral Health Month) and provided oral health education according to a set curriculum for each classroom in all nurseries, preschools, and primary schools. They also successfully screened children in years P2, P3, M2 and S2 in all schools, with results indicating that Bermuda maintains levels of decay that are well below global averages and are among the best in the world. Congratulations to them on that work, Mr. Speaker.

The National Office for Seniors and the Physically Challenged, also known as the National Office, was transferred to the Ministry of Health in August 2009 and now has a new vision. Over the past year, the Office has implemented a new plan for communication and strategies for effective and efficient client management. The Office organised activities to celebrate the International Day for Persons with Disabilities. Monthly meetings have been established between the National Office and the Department of Health to improve case management of persons in the community.

Cabinet has considered and approved the process for Bermuda to become a signatory to the UN Convention on the Rights of Persons with Disabilities. This is in line with the Throne Speech commitment to focus on disability issues within the community. A task force has been formed to investigate and submit proposals for access to Government buildings for persons with disabilities.

Mr. Speaker, let us talk now about FutureCare. Phase two of FutureCare was developed and launched successfully April 1, 2010. A detailed communication plan was developed and executed, including Town Hall meetings, radio and television interviews, and work on a FutureCare film for CITV (and also other stations) is now in post-production.

Additionally, the Health Insurance Department made substantial progress towards completing the Department's automation project. By the end of July 2010, the Department will have completed the baseline implementation of the software application. They also made significant progress towards implementing its reorganisation. Cabinet approved a new structure in January of this year, and draft job descriptions are with the Department of Human Resources for review.

Mr. Speaker, the Health Council continues to make significant progress against its mandate, under the direction of its CEO and the restructured membership of the Council. In 2010, their focus has been on developing and consulting on a framework to regulate health care businesses, and on enhancing the regulatory framework for health insurers.

The Council produced an update on Bermuda Health System Profile, using Pan American Health Organisation methodology, providing an overview of the health sector and reforms since the last Profile in 2004.

The Council is presently working on identifying mechanisms to monitor utilisation and expenditure on prescription drugs. An assessment of the pharmaceutical sector was conducted last year, and work is ongoing to identify ways to make prescription drugs more affordable to the public.

Mr. Speaker, one of the functions of the Health Council is to license and regulate health insurers. They have developed a system to monitor employers' compliance with the Health Insurance Act which is being implemented this year. The Council has produced guidelines to curtail upfront payments. This work was conducted with multidisciplinary collaboration from across the health care sector last year. These guidelines were published in June 2010. And I can tell you, Mr. Speaker, a lot of members of the public have brought that issue to my attention, and I have continued the momentum around it to make sure that it gets done this year.

The Council has developed a framework to control the entry of high-tech medical equipment into the health system as a mechanism to contain costs. The Council is currently developing a process to conduct health technology assessments, following the model of most sophisticated health systems.

The Council also commissioned PWC (Price Waterhouse & Cooper) to conduct a study of regu-

lated physician fee levels in Bermuda and comparison to the United States. This was the first study to benchmark Bermuda fee levels. The study found that rates are generally on par with high-cost US locales. People should note that.

The Council also identified and implemented mechanisms to monitor and report on health system expenditure and financing. The Island's National Health Accounts Report has been produced in 2010 and will be published shortly.

Mr. Speaker, then there is, of course, the Bermuda Hospitals Board. There have been many advances over the last year. And I would just like to highlight just a few.

We expanded our Clinical Advisorships:

- Vascular(Lahey [Hospital in Boston];
- Radiation Oncology (Lahey);
- Prostate/Breast Cancer programmes (Dana Farber [Cancer Institute]);
- Cardiologist(Lahey);
- The ever-famous Robot (Lahey);
- Trauma (Mass General);
- Psychiatry (Howard University).

As it relates to physicians, the BHB has

- Hired Obstetricians to prevent crisis in prenatal care on the Island;
- A chief geriatrician will be arriving on Island before the end of the summer;
- Interventional Radiologist Dr Raj Koppola has arrived on the Island;
- Dr Carla Ming Reese was hired as an obstetrician;
- Dr Fox, the psychiatrist, is currently working with the Day Hospital;
- Dr Alikani, Medical Lead for Palliative Care (Agape House).

Dr Lynette Thomas completed a Nephrology Fellowship in Boston and is returning to BHB this month.

Nine out of eleven physicians—and I mean the Chiefs of the Medical Staff Committee—are now Bermudian. And I am going to repeat that so that, if there is any question of what the leadership is at the Hospital, Mr. Speaker, the public will know and will not have to rely on misstatements in this area to govern what they know: Nine out of eleven physicians, the Chiefs of the Medical Staff Committee, are now Bermudian. So I hope that is clear on whether there is Bermudian leadership at the hospital, all around, because there is, without a doubt.

Hospitalists: Patient satisfaction with physicians jumped 20 per cent following introduction of the Hospitalist Programme. Hospitalists for surgical patients have now been appointed to ensure the same standard of care for all patients.

Infection rates: Quality indicators for hospital-acquired infection rates, which is known commonly as MRSA and C-Difficile, is lower than most other countries.

Urgent Care Centre: Lamb Foggo (for everybody who wants to know what that means) opened on the 1st of April 2009.

- Volumes higher at that facility than expected;
- Tested for potential disasters, when Hurricane Bill passed;
- Survey shows high patient satisfaction with service at that centre;
- Waiting time is about 20 minutes and is an option for people if they are anywhere in the Island.

So, no matter where you are, you can go down to St. David's and get care, even if you live, arguably, in the Dockyard. If you want to go to St. David's down to the centre, you can go get your care there. There is nothing stopping you. You might even get it quicker than if you went to the emergency at the main hospital. That is how good it is going on down there.

Telemedicine has been advanced in Bermuda. The Robot, as I mentioned before, access to over 90 specialists—it provides at Lahey for patients in Bermuda. Introduction of wireless throughout the hospital—infrastructure is driven by Robot. Free patient and visitor access to Internet, so if you are there waiting for your care, or if you are in the hospital or you are there with your family member for most of the day, you can take your laptop and do what you have got to do, work, play, whatever you need to do. Seventy-five per cent of KEMH is now wired, Mr. Speaker.

Of course, there is the redevelopment project, which is high on our agenda, passage of the Special Planning Act, with the assistance of the Minister of Planning. Procurement Process for the RFQ completed and the RFP are on time and on budget. The Central Coordinating Committee for the project has been established and they are ongoing with their work. And I announced prior that, in September 2010, we will finalise the bidding process. And not long after that, the actual proposal will be completed. And the public will then, thereafter, know who is going to be doing the building and when it is going to start.

Ward Upgrades: New beds are already installed in the hospital. Ward upgrades are now underway in Perry Ward, Cooper. And this includes painting, new air conditioning, upgrades of bathrooms, and, of course, new windows. I know there was some concern about windows, but we are putting in new windows, Mr. Speaker.

Capital projects: Profit from the hospital is put straight back into health care improvements. So any money the hospital makes, it goes right back into the facility because that is the priority with the redevelopment. Overall amount invested in fiscal year is over

$13 million. ER enhancement has been completed. Plans designed for diagnostic imaging and a new pharmacy for third-floor waiting area . . . There is a patient advocate office, which will be there to assist patients and their families with any issues they have that arise with the hospital.

New Dimensions Project is complete at Mid-Atlantic Wellness Institute. Painting of the exterior of KEMH and CCU buildings in blue is completed for all buildings except the old hospital section (which is, obviously, going to be demolished). And the Queen [Edwards] Nursing Residence right now is under planned renovations.

Mid-Atlantic Wellness has not been forgotten:

- Patient satisfaction baseline complete for all programmes;
- There are new freezers for the dietary;
- New switch room;
- Remediation of community rehab offices;
- Remediation of vocational lab;
- Complete re-build of the water tank and pressure systems;
- Modernisation of Reid Ward;
- Replacement of all windows in Devon Lodge.

As it relates to the learning disability:

- Opened Westside Villa for Project 100, and eight clients have been housed;
- Group Homes opened at Smith Hill Road, five clients being housed;
- Single medical records introduced, both KEMH and Mid-Atlantic, to ensure holistic view of patient, so there is not duplication on information;
- Twelve new graduates from the Learning Disability City and Guilds Programme—52 nurse's aides, out of 98, have gone through the programme, so we have an emphasis on retraining and learning going on as well, Mr. Speaker, very important for the health care industry.

Mid-Atlantic Physicians: Bermudian psychiatrist Dr. Chantelle Simmons, our first Bermudian psychiatrist, is there. We have a Chief of Psychiatry well known to many, Dr Michael Radford, and five consultant psychiatrists were hired. So we have a good contingent of psychiatric professionals at Mid-Atlantic Wellness Institute to provide the care that is needed for the whole Island, not just Mid-Atlantic, because it is about community-based care that we are shifting towards, Mr. Speaker.

Substance Abuse:

- Smoking Cessation programme for substance abuse clients introduced;
- Work started on specific accreditation for substance abuse directorate;
- And a new gym opened to support new wellness (wellness is important, Mr. Speaker), that component of substance abuse programme.

Again, Mid-Atlantic, Child and Adolescent Services have two summer camps run for ADHD and autistic clients. We are trying to focus on the issues around autism. An autism clinic is about to start.

As it relates to mental health, we have a new Memorandum of Understanding with the Department of Corrections and the BPS, the Bermuda Police Service. The Mental Health Plan, which I have spoken about quite a bit, and which was launched, has been approved and is on its way.

MindFrame/PhotoVoice Exhibition was held, as well, last year, to highlight some of the artistic talents of some of our persons with mental challenges. So we are trying to get things out there that, there are many gifts, even among those who may have some challenges—there are gifts that we must appreciate from them, Mr. Speaker.

Culture of service excellence:

- Values-based behaviours introduced;
- Service standards, organisational and departmental, introduced;
- Measurement of patient, staff, and physician satisfaction goes on regularly;
- Monthly telephone patient satisfaction surveys are done and used by departments to drive any improvements they must put in place;
- A one-day Service Excellence training programme has been developed and is being delivered to all staff and management.

Succession planning, which I believe we all are concerned about and is very important. All Bermudian managers and supervisors are given opportunity to be assessed for their future potential. Fifty have been assessed to date. Again, I want to make sure that this is well heard about the Bermudian leadership under the BHB, Mr. Speaker, since there have been certain controversies about that and allegations about that suggested—aspersions, as the Honourable Member has just suggested.

Nine Bermudians have been promoted and transferred to other positions based on results of BHB Succession Programme. And these are:

- Chief Business Development Officer;
- Chief Nursing Officer;
- VP, Quality and Risk;
- Director, Critical Care;
- Director, Substance Abuse;
- Director, Information Technology Services;
- PPP Project Manager;
- Director, Child and Adolescent Services; and
- VP, Medical Operations.

These are all Bermudians under the BHB umbrella, leadership—Bermudian leadership at the BHB. It is there, and they are doing an excellent job.

Scholarships—we are always interested in academic achievement amongst our team:

- Scholarships awarded totalling $140,000, paid over time, over four years;
- Awarded to five students pursuing degrees in healthcare;
- One jointly funded by GlaxoSmithKline, which is contributing $30,000 to scholarship efforts by the BHB.

So, as you can see, Mr. Speaker, we are putting big bucks to education within the health care industry and of our people.

[Desk thumping]

Hon. Walter H. Roban: Stroke Rehab—the Stroke Team is in place. Next steps are identifying cluster beds as a stroke unit. New beds have been introduced. Sixty-six new medical surgical beds and mattresses.

Way-finding signage also is now up at the KEMH. We are trying to provide a service that is equitable to hotel service, Mr. Speaker, with new linens, new curtains, new floor treatments, microfibre mop pilot, food delivery, all. We are trying to raise the standard, Mr. Speaker, make it closer to a hotel than to a hospital in the true sense of the word. If hospitality is Bermuda's mantra, it might as well be everywhere, including in the hospital.

Nursing—hourly rounds have been introduced. Bermudian Chief of Nursing, Quality and Risk appointed, as I said; Bermudian VP, Quality and Risk Management appointed. We have a strong association with Mass General, which is helping to advance our nursing. Nurse practice standards are being revised in preparation for the new redevelopment.

We are working on our accreditation, and we have a coordinator in place, and focus now on the next survey, which is for May of next year.

Mr. Speaker, I believe that as we come to an end of this Parliamentary Session, it is important to highlight the significant and critical services that are provided as a result of the Government's financial commitment—and not only financial, but we believe in this, Mr. Speaker (I can tell you that)—to the health and well-being of this community.

I would like to thank all of the staff who play a role in the health sector in Bermuda, both public and private. Mr. Speaker, I would be remiss if I did not give the same congratulations to those in the private sector, as we have certain Members of this House who are a part of that sector.

[Desk thumping]

Hon. Walter H. Roban: They work, Mr. Speaker, many of them, on public holidays, during hurricanes, often dealing with hostile situations and aggressive persons, day in and day out, for they commit themselves to the care of everyone in this country.

Mr. Speaker, in closing, I also apologise to all those whose efforts could not be highlighted today. But, although not mentioned, they will never be and are not forgotten.

Thank you, Mr. Speaker.

[Desk thumping]

The Speaker: Thank you, Minister Roban.

Any further Ministerial Statements?

I now recognise the Honourable Member, Mrs. D. Butterfield, from Pembroke West Central.

Minister Butterfield has the floor.

Minister?

DEPARTMENT OF CHILD AND FAMILY SERVICES "SUMMER EXPERIENCE 2010"

Hon. D. Neletha I. Butterfield: Thank you, Mr. Speaker.

I rise this morning to share with my honourable colleagues the launch of the Department of Child and Family Services Summer Experience 2010, for at-risk children ages 12 through 17 who are currently connected to the Department of Child and Family Services and/or Court Services.

Mr. Speaker, experiential learning is a process of obtaining meaningful experience from being directly involved in a situation or condition. The Summer Experience 2010 commenced on June 28th and will end on August 27th.

A total of 30 children are actively and directly engaged in experiential learning modules that include farm work, carpentry, wilderness survival, and skills building. The learning modules are designed to function simultaneously on a weekly basis. There are roughly four to six children assigned to one module, who rotate to a different module each week for a different experience.

For example, looking at the farm experience module, the children, along with their experience coaches, live on a farm for one week, taking total responsibility for the operation of the farm. This includes scheduling the feeding of animals, cleaning cages and stalls, grooming the animals, taking and returning the horses to and from the paddock, and planning and cooking their meals, using the resources of the farm such as eggs and vegetables.

Mr. Speaker, it is important to note that the experience coaches are university summer students hired through the Department of Labour and Training Summer Employment Programme, who are currently studying in the areas of social work and human services to prepare them as experienced coaches for the

work. They participated in intensive training covering the core principles used within the Department of Child and Family Services: therapeutic crisis intervention (also known as TCI), children and residential experience, ethics and confidentiality, CPR and First Aid.

Mr. Speaker, after children complete one of the weeklong modules, each group is required to present their experience, in particular the learning that occurred. They also make suggestions to the next group on how the experience can be enhanced. The presentation is intended to teach the children how to verbalise their experience and work from a strength-based perspective.

The Summer Experience 2010 has proven to be very successful thus far. This is evidenced by the many requests from the children to lengthen the time they spend in each module, and also to extend the entire experience beyond the summer months into the school year as a weekend experience.

The Department of Child and Family Services Summer Experience 2010 has impacted the lives of not only the at-risk children, but also the lives of the experience coaches who are supporting them in this process. This experience has undoubtedly developed the human potential of the at-risk children.

As Aristotle once said, "For the things we have to learn before we can do them, we learn by doing them.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister Butterfield.

Are there any further Ministerial Statements? Yes, there are.

I now recognise the Honourable and Learned Member, Mr. M. Scott, from Sandys North.

Minister Scott, you have the floor.

DEPARTMENT OF ENERGY SUGGESTIONS FOR ENERGY CONSERVATION THIS SUMMER

Hon. Michael J. Scott: Mr. Speaker, I thank you.

I rise before the House this morning to inform honourable colleagues, as well as the entire population of Bermuda, of a very important situation relative to energy.

Mr. Speaker, through 28th July, BELCO will be carrying out maintenance work on several engines while the process of commissioning its three new gas turbine engines continues. From now until Cup Match, plant maintenance crews will be working extra shifts to complete essential maintenance as quickly as possible while all available diesel engines and gas turbines are run to meet Bermuda's demand for electricity. During this period, the total planned capacity will be 135 megawatts, while the maximum demand is projected to be 118 megawatts.

Under these circumstances, Mr. Speaker, if any engine is forced out of service, BELCO will likely need to shed load from the system. When load shedding is required, BELCO control engineers choose circuits in rotation to spread power outages across our Island.

As all of us are aware, two outages affecting almost 10,000 customers have already been initiated by BELCO in the past few weeks to shed load from their system on Friday, 9th July, and Tuesday, July 13th. Mr. Speaker, load shedding means residents will be without power for periods of time. The exceptions are the city of Hamilton and circuits that feed essential services such as the King Edward VII Memorial Hospital and the L.F. Wade International Airport.

Mr. Speaker, it is my humble view that we can avoid the need for BELCO to shed load simply by conserving energy over the coming weeks. And this is the principal message. Therefore, the Department of Energy within the Ministry of Energy, Telecommunications, and E-Commerce is partnering with BELCO to encourage residents to conserve energy during the coming weeks so that we might avoid a possible summer of disconnect.

Mr. Speaker, one of the effective ways of conserving energy is by setting our air conditioners no cooler than 75 degrees, turning them off whenever possible and using fans instead. We can also conserve energy by drying clothes on the line instead of using a dryer, and turning off nonessential lights and appliances. There are many more ways one can conserve energy, and I have outlined a few here. I encourage the general public and Members of this Honourable House to learn more about how they can conserve energy by visiting both the Department of Energy's website on the Government portal and BELCO'S website.

Mr. Speaker, may I leave you with this. It was the columnist William Ruckleshaus who penned, "Nature provides a free lunch, but only if we control our appetites." Thank you, Mr. Speaker.

The Speaker: Thank you, Minister Scott, the Honourable and Learned Member from Sandys North.

Are there any further Ministerial Statements?

We will move on.

REPORTS OF COMMITTEES

The Speaker: We have a report from the Parliamentary Standing Committee on the Office of the Auditor General.

I now recognise the Honourable Member, Mr. M. Weeks, Pembroke East Central, who is going to do us the honours.

Mr. Weeks?

REPORT OF THE PARLIAMENTARY STANDING COMMITTEE ON THE OFFICE OF THE AUDITOR GENERAL—JULY 2010

Mr. Michael Weeks: Thank you, Mr. Speaker, and good morning.

Under the provisions of Standing Order 94(4) of the House of Assembly, I hereby submit for the information of the Honourable House of Assembly a Report of the Parliamentary Standing Committee and the Office of the Auditor General, July 2010.

To His Honour, the Speaker, and the Members of the Honourable House of Assembly: The Parliamentary Standing Committee and the Office of the Auditor General has the honour to submit the following report, in accordance with section 34(4) of the Provisional Standing Orders of the House of Assembly pursuant to section 45 of the Bermuda Constitution:

Your Committee is pleased to report that we have met with the new Auditor General and her senior staff on several occasions since her appointment in September 2009 to discuss the Office's current status and initiatives planned for upcoming months. Our deliberations have focused on the following matters:

- 2010–2011 Office of the Auditor General Budget Request;
- A recent review of the Office of the Auditor General;
- A revised organisational structure;
- Funding to support new office accommodations;
- Funding to complete the audit of outstanding accounts that are now becoming available for audit.

Your Committee wishes to advise that the Minister of Finance approved the Auditor General's current account budget estimates for fiscal year 2010/2011 in the amount of $3.3 million. This represents an increase of $332,000 over fiscal year 2009/2010, and supports funding for three new audit posts and increased office rental costs. The Minister of Finance also approved a capital acquisitions budget of $42,000 for office equipment.

Formal Review of the Office of the Auditor General: Your Committee is pleased to report that the Auditor General commissioned a formal review of the Office of the Auditor General immediately after her appointment in September 2009. The purpose of the review was to determine the effectiveness of the Office in carrying out its mandate and to make recommendations for improvement.

The review, which was conducted by a former Deputy Auditor General of British Columbia, was completed in February 2010 and presented to the Committee in April 2010. The review contains 34 recommendations for improvement against benchmarks established for supreme audit institutions.

A key recommendation, which speaks to the ongoing success of the Office, requires the establishment of a comprehensive and sustainable training and development programme for Bermudian staff, including trainees and professional accountants. Other key recommendations include:

- Developing a multi-area strategic and operational plan;
- Reviewing and updating audit methodologies to ensure that they are consistent with Canadian standards as promulgated by the Institute of Chartered Accountants of Bermuda;
- Developing a robust performance auditing programme; and
- Enhancing communications with internal and external stakeholders.

Your Committee is also pleased to report that the Auditor General and her staff are making significant progress in addressing these recommendations. The Auditor General will provide regular updates to the Committee in subsequent meetings.

Your Committee has reviewed the request of the Auditor General to revise the organisational structure of the Office, which follows auditor review of the Office. Key changes to the organisational structure include:

1. Redefining the roles of the two assistant Auditors General to provide high-level support to the Auditor General and to oversee the timely completion of audits in accordance with professional standards;
2. Establishing a new post of Director of Corporate Services with responsibility for providing a full administrative support to the Office;
3. Establishing two new posts of Audit Principal, which will be responsible for planning, resourcing, and directing all audits;
4. Establishing four additional posts which are currently funded and housed by temporary staff and consultant auditors.

These changes, Mr. Speaker, will increase the permanent establishment for the Office from 18 to 25 posts.

Your Committee is pleased to report that the Minister of Finance has no objection to the increase in the establishment and has provided additional funding for three new posts in the 2010–2011 budget.

In accordance with Standing Order 34(4)(b) of the House of Assembly, your Committee hereby supports and recommends the revised establishment of the Office of the Auditor General, including both members and grading of posts, and will make a suitable recommendation to the Premier in this regard.

Your Committee fully supports the Auditor General in her efforts to find suitable and secure accommodations for her Office. This issue was also raised in the review of the Office, noting that the woefully inadequate and insecure space currently housing the Office presents a major security risk, particularly with respect to the sensitive and confidential information held by the Office.

Your Committee can report that a recent meeting of the Minister of Works and Engineering, the Chairman, and the Auditor General was held to discuss a solution to this issue. Your Committee is pleased to report that the Minister has agreed to progress this matter as expeditiously as possible.

Funding to complete the audit of outstanding accounts:

1. Your Committee has taken note that there are 63 outstanding accounts which have not been presented for audit and that predate September 2009, representing approximately 18,000, or 10 man-years, of audit work. There are also some 40 audits which are currently in varying stages of completion in the Auditor General's Office.

2. Your Committee acknowledges the commitment of various boards and councils in bringing their accounts up to date. Your Committee also acknowledges the commitment of the Auditor General to finalising the audits of these accounts as soon as they are received. However, in addition to the newly established posts, this initiative will require a greater commitment from the Ministry of Finance to provide funding for outside accounting firms to assist with these outstanding audits. Your Committee again wishes to acknowledge the financial support provided by the Ministry of Finance to date.

And in conclusion, Mr. Speaker, your Committee wishes to record its appreciation of the advice and cooperation of the Auditor General and her senior staff throughout its deliberations, and also of the sterling work done on our behalf by the Deputy Clerk to the Legislature, Mr. Clark W. Somner.

Your Committee recommends that the Minister of Works and Engineering and the Minister of Finance update the Honourable House of Assembly on any subsequent action taken on the respective points raised in this Report, all of which is respectfully submitted by the Honourable Walter M. Lister, JP, MP, as our Chairman; Mrs. Patricia J. Gordon-Pamplin, JP, MP; the Honourable Dennis P. Lister, JP, MP; Mr. N. H. Cole Simons, JP, MP; and myself, Mr. Speaker, Michael A. Weeks, JP, MP.

Thank you.

[Desk thumping]

The Speaker: Thank you, Mr. Weeks.

I imagine that all of those Honourable Members have signed it. If they have not, well, please make certain that they do. Copies of that Report will be made available to Honourable Members. Thank you, Mr. Weeks.

We will move on.

QUESTION PERIOD

The Speaker: I now recognise the Honourable Member, Ms. L. Jackson, from Pembroke South West. She indicated she wished to put question to Minister Roban on his Ministerial Statement.

Ms. Jackson has the floor.

QUESTION NO. 1 ON MINISTRY OF HEALTH ACHIEVEMENTS IN FISCAL YEAR 2009/2010

Mrs. Louise A. Jackson: Thank you, Mr. Speaker.

Please, will the Honourable Member, Minister Walter Roban please explain to this country when the mentally challenged adults at Orange Valley, who are placed now at MAWI will be placed in a proper facility, as they have been promised this for over six years?

The Speaker: Minister Roban is going to respond.

Hon. Walter H. Roban: Mr. Speaker, let it be clear that we have a strong commitment towards ensuring that the care of all of our disabled citizens is done properly. We are in the process of reviewing that situation. And as soon as there is something for me to report, I will do so. Thank you.

The Speaker: Thank you, Minister.

Is there further question?

Mrs. Louise A. Jackson: Supplementary.

The Speaker: Supplementary question by the Honourable Member Ms. L. A. Jackson.

SUPPLEMENTARIES

Mrs. Louise A. Jackson: Having not received a time for this . . . I do not suppose we will ever get a time for it. They will always be there.

Would he please tell us about the transportation, which is very inefficient at the Orange Valley now, and has been, again, for five or six years—will ever be given to these patients?

The Speaker: Thank you, Ms. Jackson.

Minister, do you wish to respond?

Minister Roban is going to respond.

Hon. Walter H. Roban: I think that is more of an opinion of the Honourable Member, which I do not agree. And we will continue to provide transportation that will fit all of the needs of those persons who are disabled who are within our care.

The Speaker: Thank you, Minister.

Mrs. Louise A. Jackson: Supplementary.

The Speaker: Is there further supplementary?

Mrs. Louise A. Jackson: Will the Minister please tell us what transportation is now being provided for the patients at Orange Valley?

The Speaker: Thank you, Ms. Jackson.
Minister Roban.

Hon. Walter H. Roban: I will provide a detailed report on that to the Member in due course. I can provide that in writing, since that is a factual question.

The Speaker: Thank you, Minister Roban.
I now recognise the Honourable—you have had two.

Mrs. Louise A. Jackson: Those were supplementary. I had one question.

The Speaker: Two supplementaries, I thought I got.

Mrs. Louise A. Jackson: Yes. But I have another question.

The Speaker: You have another one?

Mrs. Louise A. Jackson: Yes, please.

The Speaker: All right.
The Honourable Member says she has another one.

An Hon. Member: Another question.

[Laughter]

Mrs. Louise A. Jackson: Another question.

The Speaker: Another question.
Go ahead, Ms. Jackson.

QUESTION NO. 2 ON MINISTRY OF HEALTH ACHIEVEMENTS IN FISCAL YEAR 2009/2010

Mrs. Louise A. Jackson: Thank you.
Will the Honourable Member please advise us how the patient who has FutureCare and is ill and needs overseas treatment, is to get the funds for the hospital bill, which is 20 per cent (that is, they have to pay 20 per cent to the overseas hospital), how they will pay for that? How they will pay for the air ambulance, how they will pay for a companion, their airfare, as FutureCare does not provide for this, or the LCCA provide for this. Would you please explain how the average person—

The Speaker: Thank you, Ms. Jackson.
Minister?
The Minister Roban is going to respond.

Hon. Walter H. Roban: Mr. Speaker, specifically FutureCare was not the subject, the main subject of my statement. It was an overview of all of the activities of my particular Ministry.
But, as has been very clearly stated publicly, air ambulance is not a feature of the FutureCare list of benefits. That has been stated from the beginning when the programme was launched in April of ’09.
And, certainly, if someone is requiring those services, they can certainly solicit it. If they are privately insured, that is a matter for them. But within the FutureCare situation, if . . . those services will be provided if necessary. But it is not a part of the FutureCare benefit, was never said to be, and the Member knows that.
So, thank you very much.

The Speaker: Thank you, Minister Roban.

Mrs. Louise A. Jackson: Supplementary.

The Speaker: There is a supplementary from the Honourable Member Ms. Jackson.

SUPPLEMENTARIES

Mrs. Louise A. Jackson: Will the Honourable Minister please explain how what a patient does with FutureCare, or for that matter with HIP, who has to have overseas treatment or they will die, and there are no other places to turn? According to you, this . . . My question is, since you are saying that FutureCare—

The Speaker: Question. Yes, question.

Mrs. Louise A. Jackson: —are so wonderful and well—

The Speaker: I got the question, yes.

Mrs. Louise A. Jackson: How will they pay—

The Speaker: You are going to get a response.
Minister Roban is going to respond.

Hon. Walter H. Roban: Mr. Speaker, these questions have been answered to the Member before. But because I wish to benefit the House and the public, I will give an answer as it relates to overseas care.
Overseas care is a part of the benefit package of FutureCare. And obviously, if a client of FutureCare is requiring it, they will be assessed on their case, and that care will be provided. And if there are any issues of finance or expenditure related to them getting the care, we deal with them and we provide them with the consultation they require. If they have to deal with financial assistance, that is available to them. But FutureCare does provide overseas care. That is clear.

That is a part of the policy. And that has been the policy from the beginning.

Mrs. Louise A. Jackson: Supplementary.

The Speaker: Yes. Supplementary number two on that one. The Honourable Member, Ms. Jackson, supplementary.

Mrs. Louise A. Jackson: Yes. Will the Honourable Minister please explain why the prescription benefit was dropped in HIP and how this can be called an "improvement" (in quotes) for seniors?

The Speaker: Minister Roban.

Hon. Walter H. Roban: The prescription drug benefit was a feature exclusively for seniors. And that particular benefit moved to FutureCare. And that is where it is, for the actual plan that is specifically for seniors.

When FutureCare was opened, that benefit has been transferred to that programme.

Thank you.

The Speaker: Thank you, Minister Roban.

I now recognise the Honourable Member, Dr. Gibbons, from Paget East, who wishes to put questions.

Go ahead, Dr. Gibbons.

QUESTION NO. 3 ON MINISTRY OF HEALTH ACHIEVEMENTS IN FISCAL YEAR 2009/2010

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Speaker.

Mr. Speaker, on page 6 of the Honourable Member's Statement—

The Speaker: Minister. Yes.

Dr. the Hon. E. Grant Gibbons: Okay. Under "Capital Projects," he refers to "profit from the hospital is put straight back into health care improvements." The first question for the Honourable Member is, How much profit are we talking about?

The Speaker: Minister Roban is responding.

Hon. Walter H. Roban: As that is a factual question, I will provide the Member with an answer to that in due course.

The Speaker: Further question or supplementary?

Dr. the Hon. E. Grant Gibbons: Supplementary, Mr. Speaker, please.

SUPPLEMENTARIES

The Speaker: Supplementary question.

Dr. the Hon. E. Grant Gibbons: The supplementary question for the Honourable Member is, Given the high cost of health care, does the Honourable Member think it appropriate that the hospital is operating on a profit basis?

The Speaker: Minister Roban is going to respond to that question.

Minister?

Hon. Walter H. Roban: The hospital does not operate on a profit basis. It is given a grant by the Government to operate, and it operates within that grant. And it manages that money accordingly.

Dr. the Hon. E. Grant Gibbons: Thank you.

The Speaker: Thank you, Minister.

Further question?

Dr. the Hon. E. Grant Gibbons: Supplementary, Mr. Speaker.

The Speaker: Yes.

Dr. the Hon. E. Grant Gibbons: Yes. If the hospital does not operate on a profit basis, then why is the Minister referring to profit from the hospital being put back into health care improvements?

The Speaker: Minister Roban is responding.

Hon. Walter H. Roban: It sounds like the Honourable Member has told me exactly what I said, and that is the answer. Thank you.

The Speaker: Further question, Dr. Gibbons?

Dr. the Hon. E. Grant Gibbons: Yes, Mr. Speaker.

The Speaker: Dr. Gibbons has a further question.

QUESTION NO. 4 ON MINISTRY OF HEALTH ACHIEVEMENTS IN FISCAL YEAR 2009/2010

Dr. the Hon. E. Grant Gibbons: A further question. I am on page 3 now of the Honourable Member's Statement, in which he refers to the Health Insurance Department completing an automation project.

Could the Honourable Member give us a sense of what that automation project entails?

The Speaker: Minister Roban is going to respond.

Hon. Walter H. Roban: Again, that is a factual question. I can give the Member detailed answers at a later date, Mr. Speaker.

The Speaker: Thank you, Minister.

Further supplementary?

Dr. the Hon. E. Grant Gibbons: Supplementary, Mr. Speaker.

The Speaker: There is a supplementary from Dr. Gibbons.

Dr. Gibbons, yes.

SUPPLEMENATRY

Dr. the Hon. E. Grant Gibbons: Mr. Speaker, does the Honourable Member understand what lies underneath the statements he makes in his statements?

[Inaudible interjections and laughter]

The Speaker: The Minister is refusing to answer that.

Any further questions?

I recognise the Honourable and Learned Member Mr. J. Barritt from Devonshire South Central. Mr. Barritt has the floor.

QUESTION NO. 1 ON NATIONAL SERVICE PLAN

Mr. John Barritt: Thank you, Mr. Speaker.

I have questions for the Premier, if I may, Mr. Premier, arising out of your Statement on the National Service Programme.

[Inaudible interjections]

Mr. John Barritt: And I think you will find my question straightforward, too, Mr. Premier.

The Speaker: Question?

Mr. John Barritt: Yes.

The Premier referred to completing a final draft of the National Service Programme. I wonder if he could give us some indication of when that might be.

The Speaker: The Honourable Premier is responding to the question.

Dr. the Hon. Ewart Frederick Brown: Yes, Mr. Speaker.

I do not have an exact date. But I would imagine that in the spirit of continuity that the new administration will see this as a high priority.

The Speaker: Thank you, Premier.

Mr. John Barritt: A supplementary with respect to that answer.

The Speaker: Yes.

The Honourable and Learned Member, Mr. Barritt, has a supplementary question.

SUPPLEMENTARY

Mr. John Barritt: Yes. Has the deadline for submissions . . . You mentioned in your Statement there was opportunity for the public to participate by making submissions on the proposal. Has that deadline come and gone, or is there still the opportunity to make submission?

The Speaker: The Premier is responding.

Dr. the Hon. Ewart Frederick Brown: Again, Mr. Speaker, I cannot recall the exact date of the deadline. I think it was the 15th of July. However, late submissions could still be considered under this Democratic Government.

The Speaker: The Honourable Member, Mr. Barritt, has a further question.

Mr. John Barritt: A further question.

The Speaker: Yes.

QUESTION NO. 2 ON NATIONAL SERVICE PLAN

Mr. John Barritt: A new question, not a supplementary.

Mr. Premier, as I read the Statement, the Government is going to attend the National Youth Service Ninth Global Conference in Egypt in October. Would we anticipate—could we anticipate that that draft plan will be discussed there?

[Inaudible interjections]

The Speaker: The Premier is responding to a question.

Dr. the Hon. Ewart Frederick Brown: Mr. Speaker, I do not know what the Honourable Member might anticipate. I do not know. We are going to move this thing along as quickly as we can. And, of course, the issue will be brought to the House, and Honourable Members will have more than ample opportunity to debate it in the interest of the young people of Bermuda.

The Speaker: Thank you, Mr. Premier.

Mr. John Barritt: Well, thank you for that. He anticipated my supplementary. I was going to ask the Premier whether we could get an undertaking following—

The Speaker: Is that another question, Mr. Barritt?

Mr. John Barritt: Yes, yes, yes, it is a question, supplementary.

The Speaker: Yes?

SUPPLEMENTARY

Mr. John Barritt: Whether the outgoing administration would be prepared to give a commitment that following the—

[Inaudible interjection]

Mr. John Barritt: Well, Mr. Speaker. Yes. Let me complete my question. You are right. I should ignore the chatterboxes.

Mr. Premier, whether following that conference, we could get a commitment that the plan will be presented to Parliament and the public following that conference in Egypt so that we can see it in its entirety?

The Speaker: The Premier is responding to the question. Premier?

Dr. the Hon. Ewart Frederick Brown: Mr. Speaker, I think that it would be inappropriate for me, as the outgoing Premier, to try to set a date certain and box in the new administration. But I am sure, I am confident that the new administration will see that this plan is subjected to the scrutiny of this House so that it can be the robust plan that we intend it to be.

The Speaker: Thank you, Mr. Premier.

I am going to recognise the Honourable Member, Mr. D. Hunt.

The Honourable Member, Mr. D. Hunt, has the floor.

Mr. Donte O. Hunt: Thank you, Mr. Speaker.

Real quick, this question is for the Honourable Member, Minister Neletha Butterfield.

The Speaker: The Honourable Minister is not in her seat.

Mr. Donte O. Hunt: She is not in her seat.

The Speaker: Right.

Mr. Donte O. Hunt: I am going to ask the question—

An Hon. Member: Well, perhaps she is listening.

[Inaudible interjections and laughter]

Mr. Donte O. Hunt: Can I ask the—

The Speaker: Well, there is no point in asking a question if she is not in her seat. There is nobody to answer.

An Hon. Member: Here she comes.

An Hon. Member: Here she goes.

Mr. Donte O. Hunt: I thought her into being.

The Speaker: All right. Give the Minister a chance to get in her seat.

Mr. Donte O. Hunt: And I did ask for your—

The Speaker: Just a minute. One minute. The Minister is returning to her seat.

Now, the Honourable Member Mr. Hunt can pose his question.

Mr. Hunt, what is your question?

QUESTION NO. 1 ON DEPARTMENT OF CHILD AND FAMILY SERVICES "SUMMER EXPERIENCE 2010"

Mr. Donte O. Hunt: Thank you, Mr. Speaker.

This is a question for the Honourable Minister Neletha Butterfield. This relates to the Summer Experience 2010. It looks absolutely phenomenal. But at any rate, let me ask my question.

I see that there are 30 participants that are involved. My question is, Is this the maximum number of participants that can be involved in this wonderful programme, as it appears to be on the Ministerial Statement? And also, what portion of the at-risk young people eligible does this represent, this 30? If she can give me the answers to that question, that would be absolutely phenomenal.

The Speaker: Thank you, Mr. Hunt.

The Honourable Member, Mr. Hunt, has asked a question. Minister Butterfield is going to reply.

Minister?

Hon. D. Neletha I. Butterfield: I almost feel like "Family Feud," saying, Can you repeat this? It seemed like there were two questions in one, Mr. Speaker.

The Speaker: There were two questions.

Hon. D. Neletha I. Butterfield: Yes, that is right.

The Speaker: You are absolutely right.

Hon. D. Neletha I. Butterfield: Thank you, Mr. Speaker.

The first question, I believe, was the number of students that can be in the programme?

The Speaker: Can it be increased from 30?

Hon. D. Neletha I. Butterfield: At this time, no, because of the facility. And as you know, some summer programmes, and also the farm . . . you cannot have a lot of people there. It is not like a schoolyard, where there is a big field and you can have all these young people. So the answer to that one is no.

And then it was the percentage of the students of the Summer Experience that—I think it was the percentage of the age group?

Mr. Donte O. Hunt: I can clarify, Mr. Speaker.

The Speaker: Yes.

Mr. Donte O. Hunt: What portion, what percentage of at-risk young people does this represent, this 30? So if it is about 100 possible, this is 30, that would be about 30 per cent. Just curious, just curious.

Hon. D. Neletha I. Butterfield: Thank you, Mr. Speaker.

I do not know exactly the percentages. But I am sure the Member, if he would go back to February when we do our budget, there are a number of numbers that we give out in the budget book. And he can do his percentage from there.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister Butterfield, and the Honourable Member, Mr. D. Hunt, from St. George's South.

I now recognise the Honourable Member, Mr. C. Swan, from Southampton West Central.

Mr. Swan has a question.

Mr. Charles F. B. Swan: Thank you, Mr. Speaker. I have questions for two different Ministers, Mr. Speaker.

The Speaker: Well, take one first, one at a time.

QUESTION NO. 2 ON DEPARTMENT OF CHILD AND FAMILY SERVICES "SUMMER EXPERIENCE 2010"

Mr. Charles F. B. Swan: I shall take the Honourable Member who just took her seat.

I just wondered. Reading that, I am quite impressed because I am a firm believer in experiential learning.

The Speaker: I would like to hear the question. That is what I would like to hear.

Mr. Charles F. B. Swan: I wonder if the Honourable Minister might consider expanding experiential learning as a method for rehabilitation in our prison system, beyond ages that you are addressing here.

That is the only question I have.

The Speaker: Minister Butterfield is going to respond.

Hon. D. Neletha I. Butterfield: I am very appreciative of the Honourable Member's question. I was not expecting one from him, simply because he was not in his seat when I read that Statement.

[Laughter]

Hon. D. Neletha I. Butterfield: But otherwise than that, Mr. Speaker, I cannot speak on behalf of the Ministry of Labour and Home Affairs. But surely, we will share that with him. Thank you.

The Speaker: The Honourable Member, Mr. Swan, has a further question.

QUESTION NO. 3 ON NATIONAL SERVICE PLAN

Mr. Charles F. B. Swan: Thank you, Mr. Speaker.

I, too, was listening.

My second question is to the Honourable Member, Minister of Tourism, to do with the National Service Programme. And, Mr. Speaker, I just wonder if the Honourable Member might advise this House and the people, if there is no plan at the present time, under what basis would you have been invited to attend this conference?

The Speaker: Mr. Premier?

The Premier is responding to a question from the Honourable Member Mr. C. Swan.

Dr. the Hon. Ewart Frederick Brown: Yes, Mr. Speaker.

The basis for the invitation was that the conference organisers, probably through the Internet, had become aware of our draft plan, our initial draft plan and our announcement to this House and to the public, months ago, about the plan. And they liked what they read enough to invite Bermuda to the conference.

The Speaker: Thank you, Premier.

Any further questions?

That concludes Question Period. We will move on.

CONGRATULATORY AND/OR OBITUARY SPEECHES

The Speaker: I recognise the Honourable Member Mr. D. Burgess. Minister Burgess from Hamilton East has the floor. Minister?

Hon. Derrick V. Burgess, Sr.: Thank you, Mr. Speaker.

Mr. Speaker, I would like this House to send condolences to the family of Ms. Yvonne Broadbell [PHONETIC]. Ms. Broadbell served many years as an employee in the hotel industry, many of her years at the Bermudiana Hotel. Also, she was a long-serving Secretary of the Hotel Division of the Bermuda Industrial Union, certainly a very dedicated person to the trade union movement, and to her family. And I am sure they will sorely miss her.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister.

I am going to take the Honourable Member, Dr. Gibbons, from Paget East.

Dr. Gibbons has the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Speaker.

I would ask that the House send congratulations to a former Member. I am referring to Mr. David Dodwell, who was able to gain quite an extraordinary recognition. And that was his hotel in Nevis known as the Nisbet Plantation, was voted by the readers of *Travel and Leisure* magazine as number one in the Caribbean and number six in the world. I think it is quite an extraordinary accomplishment, Mr. Speaker.

As I think Members will know, The Reefs continues to gain recognition on almost an annual basis. But I think the Honourable Member—

[Inaudible interjections]

Dr. the Hon. E. Grant Gibbons: I am being interrupted, Mr. Speaker.

[Gavel]

The Speaker: Yes.

Dr. Gibbons has the floor.

Carry on, Dr. Gibbons.

Dr. the Hon. E. Grant Gibbons: Thank you, thank you, Mr. Speaker.

I know that the Honourable Member, Mr. Derrick Burgess, and the Honourable Member, Mr. Kim Swan would also like to be associated with those congratulations, and Honourable Member Pat Gordon-Pamplin, and the Premier.

[Inaudible interjections]

Dr. the Hon. E. Grant Gibbons: Mr. Speaker, this is getting a little bit—

The Speaker: I would just associate the entire House.

Dr. the Hon. E. Grant Gibbons: I will do that. I will do that, Mr. Speaker. All of his former colleagues, yes.

The Speaker: Thank you.

Dr. the Hon. E. Grant Gibbons: I am sure he loves.

The Speaker: Something further?

Dr. the Hon. E. Grant Gibbons: Yes, I do have a further note of congratulations.

Mr. Speaker, I think Honourable Members will have seen the press coverage on it, but I think it is appropriate also to send congratulations to the 18 students who won awards under the ABIC scholarships for various business-related degrees. The international business community continues, obviously, to support the young Bermudians, and I think it is something that we ought to continue to recognise and certainly would send congratulations to the young scholars who won the awards, as well.

Thank you, Mr. Speaker.

The Speaker: Thank you, Dr. Gibbons.

Any further speakers?

I now recognise the Honourable and Learned Member, Minister Scott, from Sandys North. Minister?

Hon. Michael J. Scott: Mr. Speaker, thank you.

In the spirit of the pending Cup Match Classic holiday, I wish this Honourable House to extend a note of congratulations to Dr. the Hon. Ewart F. Brown, our Premier and the Minister of Tourism, who at Camden yesterday presided over the very unique welcoming ceremony to our two teams, the St. George's Cup Match team and the Somerset Cup Match team.

And the Minister of Tourism has established a very unique, what he describes as a "sacred exercise" between the champion captain and his team. I think his team is that blue and blue team at St. George's. I think he makes no bones about this. But he requires the captains to go through this sacred exercise, whereby the challenging incumbent captain makes a solemn request of the champion captain to name his drink. That captain is seated in a chair, and the challenging incumbent fetches the drink for the captain, the champion captain. And it sets up a major level of competition, I think, to reverse the order of seating. But yesterday . . . may I commend the Premier for yet a successive welcoming ceremony down at Camden.

And a very nice and neat element about this was the Acting Minister of Sport was the Honourable Minister for Education. It really was Minister Burgess, but Minister Burgess asked his colleague Mr. James to fill in. But Minister James, a great cricketer, took the opportunity to recognise our former and senior classic masters. And he knew all of their names. It was won-

derful how he just ordered the audience to focus on these wonderful gentlemen.

And may I just say this in conclusion. Both the Premier, as the Minister of Tourism, as the host of this programme, and the Minister of Education, Acting Sports Minister, encouraged the players along the lines that this game, great game of cricket, is a game for gentlemen and that they were to continue this noble tradition of displaying to the people on Thursday and Friday of next week the gentlemanly qualities associated with cricket.

I believe the message was well received, and it was an appropriate and good way for the two vying teams to receive messages from the Minister of Sport and the Minister of Tourism.

So I ask that that letter of congratulations be sent to those individuals and to the Premier.

Thank you.

The Speaker: Thank you, Minister Scott.

Any further speaker?

I recognise the Honourable Member, Mr. Z. De Silva. Minister De Silva, from Southampton East Central, has the floor. Minister?

Hon Zane J. S. De Silva: Good morning. Thank you, Mr. Speaker.

I would like this Honourable House to send congratulations to Minister Col. David Burch and his team, Mr. Speaker. Yesterday we opened the Perimeter Lane housing complex, which is a historic moment for Bermuda, as all Members in this House may know that that is the project where the tenants' rent will be geared to income.

Along with the geared-to-income rental, there is a savings plan. And I think all Members are quite aware of the percentages. I think, Mr. Speaker, that this is a milestone for Bermuda, certainly a milestone for this Party and this Government continuing to look after the people that need assistance the most.

Thank you, Mr. Speaker.

[Desk thumping]

The Speaker: Thank you, Minister De Silva, the Honourable Member from Southampton East Central.

I now recognise the Honourable Member Mrs. L. Jackson, Pembroke South West.

Mrs. Jackson has the floor.

Mrs. Louise A. Jackson: Thank you, Mr. Speaker.

I rise on a sad note, to ask the Honourable House to send a message of condolence to Denise Jefferson, who many of you perhaps would not know. This lovely lady was the head of the Alvin Ailey School. (I see the Premier shaking his head. He certainly knew Denise.)

This lady, who headed, as I said, the Alvin Ailey School in New York City, taught many of our students here in Bermuda. We were very fortunate to have met her and to have gotten her to come to Bermuda to help us. And she was a part of many of the workshops for the Bermuda National Dance Theatre and she was also helping other dance companies and other dance organisations in Bermuda.

I think the thing about Denise that was so special was that she not only came to Bermuda and taught, but she took our students back with her to New York City to the Alvin Ailey School, and they formed an association (that is, the Alvin Ailey School) with Fordham University, and these students were able to come out in four years with a bachelors degree in fine arts and in performing arts which is recognised around the world.

Now, the Alvin Ailey Company, as you know, have performed in Bermuda many times. I certainly hope that we are going to get them back again. This, again, was a part of Denise Jefferson's great love for this country.

Now, the other thing that I want to talk about is that she changed modern dance. I guess the level was lifted so high with Denise. She was able to take our students, who felt that they were in this tiny little country, would never have a chance to perform internationally, and many of them now, under her help and guidance, have been able to go out. And I am not going to call any names. I guess most of you know the names of these dancers who have gone out.

She will be sadly missed. She, as far as I am concerned, left us at a very young age, 65, very tragic. There will be a memorial service for her in New York City, and I think that we should send a message to the Alvin Ailey Company, saying that we in Bermuda appreciated Denise Jefferson, what she did for the dance world here, and that we will miss her.

Thank you very much.

The Speaker: Thank you, Ms. Jackson.

Are there any further speakers?

I recognise the Honourable Member, Mr. C. Swan, from Southampton West Central.

Mr. Swan has the floor.

Mr. Charles F. B. Swan: Thank you, Mr. Speaker.

I just wanted to add my congratulations to our athletes who are competing in the CAC Games, and would like best wishes sent to them.

And also, Mr. Speaker, we have a Bermudian who is playing in the Senior British Open in Carnoustie, Scotland. Robert Vallis won the Senior Amateur British Open last year, and thus qualified to play in the Senior Open this year. And I would like to offer congratulations and best wishes to him.

On the matter of our cricketers, next week we have a wonderful two-day holiday. And I just wanted to . . . we are all familiar, I believe, at the recent World Cup, there was an octopus, or what-have-you, that picked the winner consistently, Mr. Speaker, through-

out the World Cup. And I have come across something on the Web with the same octopus, and it has picked the winning team for next week.

The Speaker: I can guess.

Mr. Charles F. B. Swan: You can guess. Thank you, Mr. Speaker. Somerset!

[Laughter and general uproar]

The Speaker: Thank you, Mr. Swan.

I now recognise the Honourable Member—I am trying to get to the Honourable Member Mr. Swan, Leader of the Opposition, from St. George's West.

Mr. Swan, you have the floor, now that we have got the attention of the House.

Hon. Hubert (Kim) E. Swan: Yes, Mr. Speaker.

I am sorry to tell my good friend from the West that the tiger shark up at Robinson's ate the octopus before they caught him.

[Laughter]

Hon. Hubert (Kim) E. Swan: But I would like for our condolences to be sent to the family of the late Nichola Lynas who was the wife of Reverend Canon Norman Lynas at Holy Trinity Church, who died at a very young age of 51 and was funeralised this week. The service was held this week, and I believe a memorial service will be held in Ireland later.

And also, to the family of Victor "Birdie" Broadley, who passed away over a week ago and was funeralised in St. George's, a well-known St. Georgian, Mr. Speaker.

On a happier note, I would like to be associated with the congratulations being offered to Mr. David Dodwell on the awards won by his successful Nisbet Plantation resort in Nevis, and also to the warm wishes being extended to Mr. Robert Vallis. While we are unlikely to be here next week (but it is possible we may be), hopefully he will have a successful week at the British Senior Open. He is the first Bermudian, to my recollection, to be exempt for the British Senior Open by virtue of his win at the British Senior Amateur, and I think that is an important feat that needs to be recognised.

And finally, Mr. Speaker, I would like a suitable letter sent to that wonderful choir, the Mt. Zion AME Choir, from Whale Bay in Southampton Parrish, home of my former pastor, the late Member of this House, Reverend Lowe, who I miss so dearly. And they did a wonderful job in St. George's Square.

Mr. Roger Butterfield, the brother of the Honourable Member Ms. Neletha Butterfield, has done wonders, along with the music director, with this particular choir, and I am proud to be in their presence. I am probably related to the majority of them. But it is a warm feeling to see them performing. And I know the Honourable Member Mr. Blakeney, the Honourable Member Mr. Charles Swan, and I am sure the Honourable Member Ms. Neletha Butterfield, would like to be associated with these remarks.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Swan, Leader of the Opposition from St. George's West.

Any further speakers?

No further speakers. We will move on.

MATTERS OF PRIVILEGE

The Speaker: There are none.

PERSONAL EXPLANATIONS

The Speaker: There are none.

NOTICE OF MOTIONS FOR THE ADJOURNMENT OF THE HOUSE ON MATTERS OF URGENT PUBLIC IMPORTANCE

The Speaker: There are none.

INTRODUCTION OF BILLS

[Inaudible interjection]

The Speaker: Not yet. Not quite yet.

An Hon. Member: You know your key, Mr. Speaker. You know your key.

[Inaudible interjection and laughter]

The Speaker: Yes. We are talking about new matters that are being put before the House.

NOTICES OF MOTIONS

The Speaker: There are none.

ANNOUNCEMENT BY SPEAKER OR MEMBER PRESIDING

VOTE OF THANKS TO PANEL OF SPEAKERS

The Speaker: Just before we call the first Order, I just want to express my appreciation, profound gratitude to the Honourable Member Dame Jennifer Smith, Deputy Speaker of the House; the Honourable Member Mr. W. Furbert; the Honourable Member Mr. W. Perinchief and the Honourable Member Mr. A. DeVent for stepping into the breach for the last couple of

weeks when I was having—and the Honourable and Learned Member Mr. Barritt—for stepping into the breach when I had some challenges with my you-know-what.

[Laughter]

The Speaker: But I just wanted to say that I was profoundly moved by their support. And it is nice to be back in the Chamber.

[Inaudible interjection and laughter]

ORDERS OF THE DAY

The Speaker: Yes.

Now we come to the Orders of the Day.

SECOND READING

MUNICIPALITIES REFORM ACT 2010

The Speaker: Order Number 1, Municipalities Reform Act ('Amendment Act', I think, should be there as well, because we are amending the Act of 1923).

I now recognise the Honourable Member, Mr. Z. De Silva, from Southampton East Central. Minister De Silva has the floor. Minister?

Hon. Zane J. S. De Silva: Thank you, Mr. Speaker.

Mr. Speaker, I wish to move that the Bill entitled the Municipalities Reform Act 2010 be now read the second time.

The Speaker: Any objection?

Agreed to.

Carry on, Minister.

Hon. Zane J. S. De Silva: Mr. Speaker, the Bill before this Honourable House represents the ultimate challenge to us as legislators. The challenge presented is whether we will consider, debate, and vote on the Bill or whether we will join the manufactured hysteria that does not match that which we are required to consider today.

In rising to this challenge, Mr. Speaker, we are confronted by polls that indicate that 82 per cent of Bermudians are against what the Mayor told them we would do. That is the Mayor's responsibility, and I hope that in the week since the Bill was tabled, he has told them that his crystal ball was also out of order.

[Inaudible interjection]

An Hon. Member: Point of order, Mr. Speaker. The Honourable Member is misleading himself, never mind the public. That Bill has not been tabled for weeks, not even a week!

The Speaker: One week.

[Inaudible interjection and general uproar]

Hon. Zane J. S. De Silva: Mr. Speaker, the Honourable Member is obviously having the problem that you had last week. I will repeat it: That is the Mayor's responsibility, and I hope that in the *week* since the Bill was tabled, that he has told them that his crystal ball is also out of order.

Mr. Speaker, this Bill is the—Mr. Speaker—

[Inaudible interjection]

The Speaker: Move on.

Hon. Zane J. S. De Silva: This Bill is the takeover that takes over nothing.

An Hon. Member: Whoa!

Hon. Zane J. S. De Silva: This Bill is the land-grab that does not affect any land.

An Hon. Member: Yes.

Hon. Zane J. S. De Silva: This Bill apparently hurts residents by giving them the vote.

Mr. Speaker, the people of Bermuda have been misled by the hype and hysteria, and the responsibility of Honourable Members is to focus the discussion in this House on reality and not the fiction of the Corporation's PR efforts.

The Speaker: Yes?

[Desk thumping]

Hon Zane J. S. De Silva: Mr. Speaker, the principal purpose of the Bill before the House today is to reform the Island's municipalities. From the announcement of this Government's intentions in the Speech from the Throne in November 2008, we have engaged in a comprehensive exercise designed to bring to bear experienced hands in the area of municipal reform.

Mr. Speaker, in a campaign reminiscent of Delaey (Deloy) Robinson's face in the *Bullseye* in 1998, distinguished, professional men and women engaged to advise on this Government's plan were subjected to personal and false attacks on their integrity and ability. This was wrong, and is the first of the apologies the Corporation of Hamilton should make.

The Speaker: Yes?

Hon. Zane J. S. De Silva: Mr. Speaker, Honourable Members will be aware that an RFP was issued in June of last year by which proposals for an open and transparent scope of work related to the reform of the

municipalities were sought. Bids were received and a committee of technical officers, mainly senior and experienced civil servants, conducted a series of interviews, entertained presentations from the bidders, and thoroughly examined the proposals.

It is important to note, Mr. Speaker, that while overseas entities were free to respond to the open tender, evidence of local partnership was a requirement for consideration. I am pleased to say that each of the respondents met these criteria, and the vote of confidence in the local legal fraternity that that indicated was a source of some pride. That committee made a recommendation to the Minister who was then responsible, the Honourable Member, Mr. Roban.

The Minister then brought that recommendation to Cabinet, who, while supporting the Minister's recommendation, directed that the precise terms of engagement be vetted thoroughly to ensure that the best value for money was achieved. Mr. Speaker, after a presentation to Cabinet by the recommended bidder, Cabinet approved the engagement of McKenna, Long & Aldridge, with Attride-Stirling & Woloniecki as their local partners.

Mr. Speaker, from the time of their engagement, the team of consultants set about interviewing a wide variety of stakeholders to glean the sentiments of those affected, and not, by any proposed reform. The need for wholesale reform of the electoral process was unanimous. Many respondents were simply unaware of the intricate nature of the Corporations' holdings, ability to tax and levy fees, and the manner in which their operations were enhanced legislatively.

Mr. Speaker, jurisdictional reviews were conducted as part of the research. In Barbados, the local government structure was abolished in 1967, with full absorption of the local government into the central government in 1969. In St. Lucia, local government structures have been suspended since 1979. Mr. Speaker, throughout the region countries and territories have wrestled with the issue of local government. But even where there have been moves to decentralise certain of the functions, the model adopted has been one of best practise in democracy and efficiency, without prejudice to the function of the national government.

Mr. Speaker, in an interesting footnote to this entire exercise, the development of Hamilton's waterfront was a constant feature in the discussions with the interviewees. When pressed about the transformational impact on tourism in Bermuda, the development of the waterfront was raised. Even those suspicious of the aims of this reform effort admitted that the protracted manner in which the development of even a plan for the waterfront had been conducted—to the exclusion of the duly elected Government of Bermuda responsible for the economic pillar that tourism represents—was, in a word, odd.

Mr. Speaker, perhaps at this stage some history of the formation of the Corporations will be useful. Both Corporations are bodies corporate, created by statutes in the 1790s. All powers and rights the Corporations enjoy, such as the power to hold and purchase property, levy rates and operate generally, were granted to them by statute enacted by the legislature. As a matter of general principle, therefore, these powers and rights can be varied in whole or in part by the same legislature that created them.

Mr. Speaker, the Municipalities Act 1923 consolidated all the legislation related to the Corporations and repealed all previous Acts.

Hamilton was formally established as a town in 1790, and under a statute of that same year, 145 acres of land were purchased using public funds and vested in the Government of Bermuda for the use of the new town, Hamilton. (I hope everyone took note of those facts.)

An Hon. Member: I did not hear you.

Hon. Zane J. S. De Silva: You did not hear me?

The Honourable Member did not hear me, Mr. Speaker. With your indulgence, I will repeat—1790, under statute of that same year, 145 acres of land were purchased using public funds, and vested in the Government of Bermuda for the use in the new town called Hamilton.

The land was eventually divided into lots and sold at auction, with the exception of 44 lots on the waterfront designated public lots.

In 1793, Hamilton was incorporated by statute with a mayor, three aldermen, and five common councillors, to be elected by the freeholders only of Hamilton. Once established, the land in Hamilton was to be vested in the Mayor and those other officers of the Corporation, for the use of the city.

Mr. Speaker, St. George's was incorporated by statute in 1797, with a similar structure. In 1814, the courts were moved from St. George's to Hamilton, and in 1815, Hamilton replaced St. George's as Bermuda's capital.

As Hamilton's boundaries were extended through acquisition of two islands in Hamilton Harbour and other properties west of Front Street, the lands were vested in the Mayor and the officers of the Corporation, for public uses. Hamilton became a city in 1897.

Mr. Speaker, the history of the franchise in Bermuda is familiar to Honourable Members. It includes such unenviable eras of slavery, age restrictions, dual-seat constituencies, and eligibility to vote based on property ownership. Mr. Speaker, our national democracy has emerged from these discredited methods of electoral politics to the point where we now enjoy single-seat constituencies and one man, one vote, each vote of equal value.

The same cannot be said for the several acres of this country we know as Hamilton and St. George's. Mr. Speaker, the requirement that voters in

the Corporation elections be landowners was retained after the property qualification for voting in national elections was removed in the 1960s, concurrent with the introduction of the Bermuda Constitution Order 1968 and the introduction of cabinet-style government. In 1978, the qualification for voting in Corporation elections was extended to the leaseholders, as well as freeholders, and also to local businesses, and to this day remains based on property ownership.

Mr. Speaker, this Government rejects the contention that the exercise of a democratic and fundamental right such as voting should be based on the ownership or other commercial interest in land. There cannot be hybrid forms of true democracy. The Bill before this Honourable House seeks to correct ancient wrongs and establishes a principle recognised throughout history's struggles—that those who are bound by the laws ought to have a voice in making them.

Mr. Speaker, I am able to summarise the findings of this considerable work that has been conducted. The current framework of the Corporations as reflected in its modern operations under the 1923 Act is not in the best interests of Bermuda. This can be seen in three main ways:

1. The absence of a democratic governance structure has disenfranchised the majority of the Corporation of Hamilton's residents.
2. The advancement of the basic principles of accountability and transparency that are at the core of good government are left to the discretion of an undemocratically elected group of representatives.
3. The fragmented system of service delivery and policy integration in a limited geographical area inhibits the opportunity for advancement of a fully integrated economy.

Mr. Speaker, I thought it important to provide Honourable Members with the considerable background that gave rise to the Bill before turning to some of the specifics in the legislation itself.

The Bill confirms the municipal boundaries. It is useful to add at this point that, in his haste to further his ill-informed campaign, the Mayor of Hamilton reacted to and supplied to the *Royal Gazette* a *draft* of a Bill whose maps were different to those in the Bill before this Honourable House today—yet another example of hype and hysteria bred of misinformation.

Mr. Speaker, it is a mark of shame on Bermuda's democracy that, into this second decade of the twenty-first century, unjust electoral process continues to be permitted under our laws. The disenfranchised residents of the municipalities could not match the vested interest of business. Even as the Mayor of Hamilton leaves the city to lay his head at night, leaving those residents behind, he and many others do so having greater electoral power than the men and women who live in the city. That, Mr. Speaker, is not right.

I hope for unanimous support on this Bill, Mr. Speaker, because when the history of this country is written, the people of Bermuda should reflect on our actions today, with pride, as we remove the last vestige of a system designed to preserve an unnatural imbalance in favour of a few. I referred earlier to the challenge that is posed by this Bill, Mr. Speaker. The challenge is crystallised in this section headed Electoral Reform. This Government is the Party of universal adult suffrage, and one man, one vote, each vote of equal value. This Government is the home of Dame Lois Browne-Evans, Dr. Barbara Ball, Freddy Wade, and Roosevelt Brown, and any vote or action that preserves this unjust system is an insult to their legacy.

The Speaker: Yes, yes.

[Desk thumping]

Hon. Zane J. S. De Silva: Mr. Speaker, for Honourable Members opposite, the challenge is real, also. The judgment of history will also rest upon their shoulders. Is this cry of reform, openness and transparency only for some, or is it universal in its application? Mr. Speaker, having an Honourable Member who speaks for public administrative reform is one thing; but the commitment to such reform is manifested in a vote for it.

This Bill seeks to repeal and remove the ability of the municipalities to levy wharfage and port dues. Mr. Speaker, as an island, there is precious little that we do not import. Every Bermudian is affected by the activities at our ports, and the effects are seen in the price of every bottle of mayonnaise or every child's toy that we purchase. By the time an item reaches the warehouse and before it hits any shelf, its price reflects all of the charges that a supplier has had to pay before factoring in his profit margin. With that, it is then made available for the consumer.

[Inaudible interjections and general uproar]

[Gavel]

The Speaker: Yes.

Hon. Zane J. S. De Silva: Mr. Speaker, unlike customs duties, which are levied by the elected Government in accordance with a formula reflective of the nature of the item and the need to raise revenue, port dues and wharfage are levied on every Bermudian, without question, and are culturally accepted as the price of doing business. This, too, is not right. It is taxation without representation.

The Honourable Member, the Minister of Finance, regularly entertains requests from industry to waive or defer the payment of customs duty. The Honourable Premier, as the Minister responsible for Tourism, is charged with overseeing concessions for

hoteliers and hotel developers. The represented appeal regularly to their representatives and, owing to the relationship, their appeals are often allowed.

In spite of their ability to do so nationally, these Honourable Members have virtually no mechanism to affect the imposition of fees and wharfage on goods coming into Bermuda. It is not right that a reduction in customs duty be the only alternative, Mr. Speaker, because the responsibilities of the taxing entities are poles apart. This Government has the responsibility to its citizens for the paving of roads island-wide, for free day care for hardworking families, and health care for its treasured seniors. These deserved benefits cannot be sacrificed to preserve the Corporations' desire for a healthy balance sheet.

Mr. Speaker, the Mayor of Hamilton has referred to this provision as *death by financial strangulation*. Mr. Speaker, as I indicated in my Ministerial Statement when the Bill was tabled, these provisions do not come into force until April 1st, 2011—April 1st, 2011, Mr. Speaker. In the interim period, as much as it might pain him, it is the responsibility of the Mayor to cooperate with the duly elected Government of this country and determine how best to ensure that the City of Hamilton can continue to receive the services it needs and run efficiently as a centre of commerce, employment, and residency.

I look forward to that discussion because it will open doors to better management and it is likely to accelerate the pace at which people north of Church Street have their concerns addressed.

Mr. Speaker, the Bill also requires an independent audit to be performed on the Corporations. This process is mandated, and certain of its provisions are mirror images of the Audit Act 1980 that governs the activities of the Auditor General for Bermuda. As impressive as the balance sheets may be, they have not contained full details of the financial position; and in the absence of that information, the best decisions cannot be made.

Mr. Speaker, the non-payment of land tax by the Corporations, without more, is a historical anomaly. The estate of the Corporations must be assessed to ensure that, again, fairness is applied. It cannot be right that sites used for turning a profit enjoy an exemption from land tax while other businesses in this country must factor that charge into their annual operating expenses.

It is important to note that, like other entities who make the appropriate case, I expect that the Honourable Member responsible for land valuation will entertain considerations of land-tax issues for buildings like St. George's Town Hall, whose existence and use is as much a tourism novelty as it is headquarters.

Mr. Speaker, I wish to commend the Chief Parliamentary Counsel and the entire team of the Attorney General's Chambers, whose exhaustive research is symbolised in the considerable, consequential amendments that are required to give effect to this Bill and which form the balance of its provisions.

Mr. Speaker, as I close this overview of the Bill and open up the general debate on its merits, I again urge Honourable Members to debate the Bill and not the phantom allegations made in the public domain.

Mr. Speaker, this Bill represents opportunities on both sides of the House. For the Government, it represents the chance to recapture the spirit of 1998, the mandate of change for the improvement of the lives of all Bermudians. This Bill is another step towards perfecting the vision of those of our forbearers who lived and died for justice and fairness.

For Honourable Members opposite, it represents the opportunity to demonstrate that they are not wedded to business for business's sake and that the people do matter to them.

Mr. Speaker, I have taken the increasingly personal attacks on me in stride. They are unfortunate, they are hurtful; but if this is what I must endure in the name of providing the dignity of the vote to men and women in the City of Hamilton and in the Town of St. George's, then I am equal to the task.

Thank you, Mr. Speaker.

[Desk thumping]

The Speaker: Thank you, Minister De Silva.

I now recognise the Honourable Member Mr. H. Swan, Leader of the Opposition, from St. George's West.

Mr. Leader, Minister Swan, has the floor.

Hon. Hubert (Kim) E. Swan: Yes, Mr. Speaker. Thank you very much, Mr. Speaker.

I want to reflect on a few of the comments made, in particular, by the Honourable Member, that spoke just before me.

The Honourable Member, the Minister without Portfolio, Mr. De Silva, started off by saying that this Bill takes over nothing. I feel duty bound to respond immediately to that, because this Bill impacts on the Corporation of Hamilton, specifically, Mr. Speaker, when you consider that, by virtue of particular clauses contained in the Act, more than 40 per cent of the revenues will be directly impacted by this legislation.

And if that is what the Government considers taking over nothing, I would ask the Government to revisit that consideration.

We are here today, Mr. Speaker, in a very hurried fashion. And it is very unfortunate, because the way in which we got here, where the Government committed some $800,000 to consultants to consider this matter, has given us less than seven complete days to look at the legislation and wonders why there would be disquiet in the country.

The Minister came here touting some very significant people whose names are down in the his-

tory book, particularly for the Progressive Labour Party in this country, who have stood for some very important, fundamental principles. I am sure one of those fundamental principles that they would have stood for would have been transparency, would have been consultation, and would have been fairness, all of which have been absent in this process—very absent in this process.

Mr. Speaker, I mean, it certainly gives the appearance of a rallying cry, and I appreciate that. You know, we are in politics. But let us look at the context of which we come here today: an underperforming Government, a Government where two auditors now have to call into question their performance on major projects, whether or not it be capital projects, where the over-spending is unprecedented.

The building we are talking about . . . we are talking about wharfages and so forth. We are building a dock, could start off at $30 million and end up for $65 million. And yet, Mr. Speaker, and yet—

Dr. the Hon. Ewart Frederick Brown: Here we go.

Point of order. Here we go. I was hoping not to, but if you are going there, let us rock and roll. Mr. Speaker, point of order.

The Speaker: The Premier has a point of order.

POINT OF ORDER
[Misleading]

Dr. the Hon. Ewart Frederick Brown: Mr. Speaker, the Government has made it clear on more than one occasion—

[Inaudible interjection]

Dr. the Hon. Ewart Frederick Brown: The point of order is that the Honourable . . . Come on. After all this time, you think I cannot handle that? The point of order is that the Honourable Member is misleading the House. Okay?

Now, Mr. Speaker, on more than one occasion, the Government has clarified this issue for the Opposition and for the public. And that is that the difference between the preconstruction estimate and the final cost of the Dockyard cruise terminal was not 30 to 60. It was 46 to 60. Yes, an overrun, and we acknowledge that. But I will not sit here and allow the Honourable Member, either through one deficiency or another, to continue to quote untruths.

The Speaker: Yes. I think the Honourable House has heard that many times.

Go on, Mr. Leader.

Hon. Hubert (Kim) E. Swan: I appreciate the Premier's standing on a point of order—a million here, a million there. The point that we want to make is that millions were over-spent on Government projects. That is the context, Mr. Speaker, that we come here today.

[Inaudible interjections]

Hon. Hubert (Kim) E. Swan: And, Mr. Speaker, for the Honourable Member to start off his presentation where *we are taking away nothing* certainly needs to be taken with a grain of salt.

Let me share with this Honourable House, if I will, Mr. Speaker, the impact—the impact of financially crippling an organisation. And the Government, I think, understands better than most people what it is like to have a great deal of income coming in, and then, by virtue of a change in circumstances, not have that income coming in. The Government understands that all too well. That is the problem this country faces as a consequence of some of *its* fiscal, undisciplined behaviour.

But through no fault of its own, the Corporations have been going about their business, and now—and now have to find themselves operating within the next six months or seven months with 40 per cent less of revenue stream. That is significant.

Hon. Zane J. S. De Silva: Point of order, Mr. Speaker.

The Speaker: Point of order from Minister De Silva.

Yes?

POINT OF ORDER
[Misleading]

Hon. Zane J. S. De Silva: The Honourable Member is misleading the House once again.

To make a statement that the Corporations are going to spend the next six or seven months without 40 per cent of their revenue is not true. In my brief and in the Bill—

Hon. Hubert (Kim) E. Swan: That is not a point of order, and I did not say that. I did not say that.

Hon. Zane J. S. De Silva: It says that that will not happen—if it happens at all—until April next year.

Hon. Hubert (Kim) E. Swan: Yes, Mr. Speaker, anyone that is affiliated with Government knows that, come this summer (right?), to get ready for the fiscal year of 2011/2012 you are in the budgetary process. And you do not make decisions—maybe this Government does, but you do not make decisions for 2011/2012 in February. You are making it right now.

And, Mr. Speaker, the Corporations of St. George's and Hamilton, in particular, who have provided some projections based on audited statements that they provide on time, and do not have some of

the problems that we understand, know all too well that, without 40 per cent of revenue, some serious decisions have to be made.

An Hon. Member: They will be made.

Hon. Hubert (Kim) E. Swan: And that is the disingenuousness of this particular Bill.

And let me say this, Mr. Speaker, part of the real problem is when the Minister got up and spoke and mentioned "weeks." I looked. My honourable friend, the Honourable Member from Pembroke East Central, Mr. Weeks, was not in his chair. Because he said *"weeks."* And I am not going to mistake "a week" for a "weeks," because there are two different families. True, Brother?

[Inaudible interjection]

Hon. Hubert (Kim) E. Swan: Thank you. He said "weeks." But we only had less than seven days to consider a measure—

[Inaudible interjection and general uproar]

[Gavel]

The Speaker: Let us not worry about that, because we have already made it, really. From Friday to Friday is—

An Hon. Member: It could be seven years, and it would not make any difference.

[Inaudible interjection]

The Speaker: Let us not worry about that so much, because we have already ruled, from Friday to Friday is seven clear days. And the rule does not—

Hon. Hubert (Kim) E. Swan: I am not—I am not—

The Speaker: And the rule does not specify that Saturday and Sunday should be excluded. So let us leave that out.

Hon. Hubert (Kim) E. Swan: Thank you, Mr. Speaker. I am not contesting any ruling.

What I am saying, Mr. Speaker, is within this short period of time, what should have happened . . . this is where I am going, Mr. Speaker. What should have taken place is proper consideration of a matter so important—so important to this country. So important to this country and time was not afforded. Because as anyone would know . . . I mean, this is not the only matter on the Order Paper. But we have certainly had to wrap our minds around, as quickly as possible, something that should have been here today in the form of a Green Paper.

And why do I say that, Mr. Speaker? Why do I say we should be discussing this matter as opposed to dealing with legislation within seven days? Why should I say that, Mr. Speaker?

An Hon. Member: Yes, tell us why.

Hon. Hubert (Kim) E. Swan: The reason why, Mr. Speaker, is that some $650,000 have been expended upon reports, out of the public purse—reports relating to what needs to be done.

And if you consider the brief presented by the Minister as a comprehensive overview of what the consultants [were] paid $650,000 for, we have got a bigger problem than we thought.

And, Mr. Speaker, we have done a disservice to the Parliamentary procedures to be here today dealing with this, and not have the basis of considering and getting it right.

Now, let me say this, Mr. Speaker. We could not find ourselves in a position to come here today and sing *Kumbaya* and support this Bill.

An Hon. Member: You all do not sing *Kumbaya* with us, anyway.

Hon. Hubert (Kim) E. Swan: But, Mr. Speaker, it is important to make known that we are not against reform. We are not against reform. In fact, when the Government talks about one man, one vote, we all know it talks out of both sides of its mouth, because this is the same Government, Mr. Speaker, that would have this House go the whole—

[Inaudible interjection and general uproar]

[Gavel]

The Speaker: Carry on.

The Opposition Leader has the floor.

Hon. Hubert (Kim) E. Swan: Thank you, Mr. Speaker.

This is the same Government, Mr. Speaker, that would have us go through this session today and not even consider a Boundaries Report that has been complete for over two months, and have it sit on the Order Paper, where it deals with one man, one vote, and tries its best to equate the politics of the day.

The Speaker: Move on.

Hon. Hubert (Kim) E. Swan: That is, it has to do a great deal, because it speaks to the disingenuousness of why we are here today debating this motion, Mr. Speaker.

And the tone—the tone that we have had to endure—

An Hon. Member: Yes, the TV and radio commercials! Those are horrible.

Hon. Hubert (Kim) E. Swan: —has not been anything to be proud of, Mr. Speaker. And the Government has to take a responsibility for the tone that has been set.

And certainly, some of the chest-beating that we had to listen to earlier is not a true reflection, certainly not a true reflection of the real picture, because, you know, if we are here on possibly the last day of a sitting, possibly—possibly the last day of a Premiership—rushing, rushing, rushing to deal with something that requires more time, does require more time, I respectfully say that this House needs to take a little bit more pause. Take a little bit more pause.

[Inaudible interjections]

Hon. Hubert (Kim) E. Swan: Mr. Speaker, the people of this country know all too well that if they had to compare the workings of the Corporations today and the workings of the Government today, who they would give the tick in the column is good service, good service, Mr. Speaker, because—and I talk about the tone, I talk about the tone. And similarly, Mr. Speaker, you know, the Government wants to say that it helped push the process along. You cannot fault either Corporation today for taking onboard that reforms, electoral reforms, particularly, were necessary. You cannot fault them for that, because they have been talking about it.

And, Mr. Speaker, they have been . . . you know, proof of the pudding is in the eating. They have been *acting if . . .* they have been opening up their meetings. They have been moving in the direction which encourages more transparency, far more than what we have seen from the Government, Mr. Speaker. Far more! Far more than what has been demonstrated today, Mr. Speaker. Far more! Far more than what we have seen out of this Government, particularly of late, Mr. Speaker. Far more!

But, Mr. Speaker, political-point making at the expense of good governance is not the way that this country needs to be led. And I can recall, without reflecting on any other debate, I can recall someone coming to this Honourable House, someone very respected, saying that we cannot in the 10 minutes before 12 be doing things that can have significant impact on the way we go forward. We are here 2 minutes before 12! The clock is ready to strike 12, so someone would have you think, Mr. Speaker. We are dealing with matters that require more time.

An Hon. Member: For what?

Hon. Hubert (Kim) E. Swan: More time to consider how . . . and my colleagues, when they have the opportunity, Mr. Speaker, will speak to more specifics. And as we get into the clauses of the Bill, we will look at it, Mr. Speaker, with a little bit more finer-toothed comb, to be able to point out some of the problems that exist.

And why is it they exist? For some reason, we are in the point-scoring. And it comes about the tone. We know, Mr. Speaker, we know there is great concern and disquiet and apprehension in this country on any number of issues, be it the way in which the Government has run this country from a fiscal standpoint of view, the huge debt that we have, the amount of crime that we have, all types and myriads of things. The way in which the Government has facilitated a situation that has caused division, that has caused greater polarisation, does not allow people looking in from the outside to get a warm and fuzzy feeling about us here in this country.

And, Mr. Speaker, that speaks to a tone. That speaks to a tone in this country that is set at the top, that is not making us a friendly place, a friendly jurisdiction. It speaks to, *Do as I say, not as I do.* It speaks to, Mr. Speaker, that you would have the gall to come here and tell someone, who might know a little something about balance sheets, that, *Hey, I am going to take 40 per cent of your revenues. But, you know, everything is going to be all right.*

Well, you know what, Mr. Speaker? Let me just reflect on a town that I know a little bit something about. We are not as formally 40 per cent . . . I would not say 40. It would be wrong to say 40. A significant percentage of . . . a part of that industry was extracted from that entity. And it has had a crippling effect. And that is St. George's Golf Club.

And I think, Mr. Speaker, a number of people did not realise how significant an amenity a golf club is to the economy of a region. And St. George's is a region of Bermuda. And, Mr. Speaker, we came here two years ago, and the Premier felt it very important to consider a Bill of significance—but certainly not as significant as this, but can be paralleled as significant. I think we all recognise that. That is why we came back here on September 13th of 2008, I believe, or thereabouts, give a day or two. We came back out of summer, the last day of sitting, Mr. Speaker, right around this time, because, you know, right around this time a lot of legislation gets jumped on you.

Just like it did around Easter time and folks wanted us to do a gaming Green Paper because someone had an agenda for right around this time. We were supposed to have a little gaming Bill, and it was all planned. And they tried to get us to, *Hey, look, you know, can you do this thing in a couple of days?* And you know what? We managed to prevail because contained in there was a little caveat that says, you know, *This thing will have the opportunity to be considered by the wider public.* And we had a Green Paper, and people across the floor held hands and spoke very opposite to what was—

The Speaker: That is a matter that the House came to conclusively.

Hon. Hubert (Kim) E. Swan: Yes, Mr. Speaker. And that—

The Speaker: So, move on. You have to move on.

Hon. Hubert (Kim) E. Swan: And that speaks to an important point that I felt duty bound to make, about the tone, the tone. The tone that is set is different, because the tone that was set, Mr. Speaker, in this occasion is about, *Hey, I cannot rely on, you know, due process to take place, due diligence to come into being, for people to have actually considered the facts of the matter, for people to look at the performance of Corporations, for people to see whether or not Corporations are far more willing to be more modern and more willing to put forward some of the reforms, and, more importantly, to share with us how we could reach a better position.*

Mr. Speaker, doing this the way we are doing it is preventing this public from participating. And, you know, we all . . . look, when an election time has come up, we will all talk about the importance of participatory democracy.

An Hon. Member: That is what we are doing with this Bill.

[Inaudible interjections]

Hon. Hubert (Kim) E. Swan: Participatory democracy, Mr. Speaker.

[Inaudible interjections]

Hon. Hubert (Kim) E. Swan: And Mr. Speaker, it is important that when you . . . you cannot just talk about participatory democracy and recall people who lived and demonstrated participatory democracy. At some point in time, when you are a Government, you will be judged by your deeds. And the deeds of this Government is not gelling, is not paralleling with what participatory democracy represents and is, in fact, in this country, Mr. Speaker.

The impact of a loss of 40 per cent of one's revenue, as I alluded to, the impact that the town of St. George's has had to endure, not having a golf club, which was (although not contained in this Bill) very much part of the mindset of a Government that shared with us in a Ministerial Statement that it wants to roll up into Government the duties of the Corporation. We have not heard whether or not that pronouncement is still the mandate of the Government or not, because the Government, even in the briefing of the Minister, did not share that, because the Government would continue to come here with Ministerial Statements, Mr. Speaker, to defend its position. But time and time again, it does not live up to what it has promised.

And certainly, as you look at places like St. George's, in particular, decisions by the Government, whether it be decisions such as not having the police station functional for several years and months, and then having a part-time police station, an integral part of the economic wellbeing of a community, you cannot look at revenues and recognise that decisions that are made that make people feel less safe in their community have a huge impact on how people participate economically in that community.

And that, Mr. Speaker, is some of the . . . that is where the exodus of a St. George's Golf Club and the Government's inability to make it the priority that it has required in the past two years, save and except . . . and I give you credit, Mr. Speaker. We finally have a CD of the list.

But what we really need to do is like [Inaudible] did. We need to see the real ingredient or how—not the CD. We need to "*see dee*" real ingredient of some development in our town, because coming here with hype, coming here with promises, coming here with the type of things that we have had to endure has not provided us with the show and tell, the real deal, Mr. Speaker.

And that, Mr. Speaker, is critical. That is critical.

[Inaudible interjection]

Hon. Hubert (Kim) E. Swan: Yes, and yes.

The Premier interpolates about the implosion. And certainly, that created a buzz—a real buzz, Mr. Speaker. And I give the Premier kudos for his part in seeing that we needed to get that hotel imploded.

And yes. If we could get visitors as excited about our St. George's as we did about getting out there and watching the implosion, if we could have an implosion every day, I mean, maybe we would have some reason to get people here!

And so, Mr. Speaker, by—

[Inaudible interjections]

Hon. Hubert (Kim) E. Swan: Yes! Today, two years after the implosion of Club Med, we are now seeing—

The Speaker: It sounds like you are straying. I thought we were discussing this.

Hon. Hubert (Kim) E. Swan: I am not straying, Mr. Speaker.

The Speaker: Well, let me see if I can follow you.

[Inaudible interjection]

[Gavel]

The Speaker: We are talking of the general principles of the Municipality Reform Amendment Act.

[Inaudible interjection]

The Speaker: Continue, Minister Swan.

Hon. Hubert (Kim) E. Swan: Bear with me, Mr. Speaker.

You know, the Government is trying to just rush me along—rush me! *Rush, rush. Say it, say it. Rush it, rush it, rush it!* Just . . . and that is the spirit that we are here today. It is unfortunate. It is most unfortunate. And what price is this country going to have to pay for this bull that is in such a hurry? What is the price that we are going to pay for it, Mr. Speaker?

It is important that I share with you, once again, Mr. Speaker, that we support reform. But the way in which you engage reform gets buy-in from our community. And that is what has been absent in this whole process.

Mr. Speaker, the Corporations of Hamilton and St. George's have—

[Inaudible interjections and general uproar]

Hon. Hubert (Kim) E. Swan: Mr. Speaker, we must reiterate that the process in which we have had to endure this particular Bill is not in the spirit of good governance.

And let us think about the jobs that are impacted, because, you know, you cannot consider 40 per cent loss in revenue without asking the question right now, this summer through the fall, as to what will the budget for 2011/2012 look like for the Corporations of St. George's and Hamilton, with the serious impact of the reduction in their revenues? You cannot do that.

And, Mr. Speaker, then you have to turn to the human aspect, the people that work for these entities. I know that there have been folks who have had the opportunity to meet and talk to the principals of the Corporation, and, if you permit me, Mr. Speaker, I will share with you some projections based on their knowledge of the impact of the loss in revenues, which they estimate at some $8.2 million.

And when you look at their expenses, you will note that out of a total of $22 million in projected expenses for the fiscal year of 2011/2012, Mr. Speaker, $11.5 million of that is in salaries and related costs, on-cost as we would say in Government. Fifty per cent! Fifty per cent of the expenditures go to wages. And I am certain anybody that is familiar—

[Inaudible interjection]

Hon. Hubert (Kim) E. Swan: Mr. Speaker, anyone that is familiar with the budgets will know that a huge percentage in modern-day Bermuda goes on salaries and wages and benefits. Oh, yes, and benefits, be it health care, be it whatever. The point is that there is a human side, there is a definite human side to the cuts that we have to consider that are going to impact on people.

People, Mr. Speaker! Constituents! Our constituents. Thirty-six of us represent someone, from Somerset to St. George's and in between, who is going to be impacted by legislation that we are rushing through, that we are in a hurry for, Mr. Speaker. And that is the human side of this legislation, because you cannot come here in the spirit of L. Frederick Wade and Dame Lois Browne-Evans and others who have stood up for right, and come here and beat your chest and say, *I'm going to rush something through in their name that could cause people's jobs—*

Dr. the Hon. Ewart Frederick Brown: Point of order. Point of order.

The Speaker: The Premier has a point of order.

POINT OF ORDER
[Misleading]

Dr. the Hon. Ewart Frederick Brown: Mr. Speaker, the Honourable Member is not only misleading the House, but he is insulting the memory of people whom we hold near and dear. So if he wants to point to other people . . . but he should not claim that we are coming here and rushing the Bill *in the names of those people.* I ask him to retract that in the interest of—

[Inaudible interjections]

Dr. the Hon. Ewart Frederick Brown: We are not rushing it. We are doing it in their name.

Thank you, Mr. Speaker.

The Speaker: It was not being done in their name. Yes.

Hon. Hubert (Kim) E. Swan: Mr. Speaker, I would never stand on my feet and disrespect those good persons. But the Honourable Member did make reference to them.

The Speaker: Their legacy.

Hon. Hubert (Kim) E. Swan: Their legacy, yes, Mr. Speaker.

The Speaker: Mr. Swan, do you wish to continue after lunch?

Hon. Hubert (Kim) E. Swan: Yes, Mr. Speaker.

The Speaker: I now recognise the Honourable Member, Mr. Premier.

Mr. Premier has the floor.

Dr. the Hon. Ewart Frederick Brown: Thank you. Mr. Speaker, I move that the House adjourn for lunch.

The Speaker: Is there any objection to that motion?

Agreed to.

The House stands adjourned for lunch. And we will resume again at 2:00 pm.

Proceedings suspended at 12:32 pm

Proceedings resumed at 2:00 pm

The Speaker: Mr. Leader has the floor.

SECOND READING

MUNICIPALITIES REFORM ACT 2010

[Continuation of Second Reading debate thereon]

Hon. Hubert (Kim) E. Swan: Thank you, Mr. Speaker.

We resume debate on the Municipalities Reform Amendment Act 2010, Mr. Speaker. Certainly, since we have been to lunch, we have seen an expression of concern by many citizens in our country who felt it necessary to express how they felt about this particular amendment.

Mr. Speaker, it is important to also note that the citizens were joined by the Bermuda Public Service Union, who also represents administrative staff of the Corporation of Hamilton, and an address was given to the crowd by the President of that Union to express concern and the need for far more dialogue and far more information.

I certainly feel, Mr. Speaker, that that speaks to the heart of what we find ourselves here today debating. This amendment Act, which particularly, as I have stated previously, cuts to the heart of the organisations, the Corporations of Hamilton and St. George's, because in enacting this—if we were to make the mistake and enact this Bill, and it became law and came into effect April 1st, 2011—it would actually cost the Corporations. And the Hamilton Corporation has outlined that it would have an impact of a 40 per cent reduction in revenues, some $8 million.

And in today's climate and in the climate in which this Bill has come to this House, that is a significant amount of revenue to have to consider making up on such short notice.

Just to put it in context, because, certainly, we in this House know a little bit about how important it is to have something to take home. Let me put it to Members in as *country* a way as I can, as the country politician that I am, Mr. Speaker. A Cabinet Minister today makes $150,000—far more than you and I, Mr. Speaker, notwithstanding the responsibilities. But it just so happens, the Cabinet Minister of today wakes up and decides, *I am going to take a 40 per cent pay cut in what I take home.*

That would mean that the Cabinet Minister would then have to operate on $90,000 instead of $150,000. And, you know, I am sure I would not see too many Cabinet Ministers in such a hurry to do that. Why? Because it would impact on their ability to provide for their family.

[Inaudible interjection]

Hon. Hubert (Kim) E. Swan: Some do, they say. But others cannot.

Mr. Speaker, I say that in all fairness, because if that was to go across the board, it would mean that a Member who earns $50,000 would then have to function with $30,000. And anyone who is operating with that type of deficiency would have to recognise that, in order to survive, a great deal of cuts would have to occur. They would have to operate their lives a whole lot differently. And that is the heart of this matter. That is the heart of this matter!

You saw persons join in with people to save the city, who marched, because they were also very concerned about the jobs and the jobs of their fellow colleagues. That is not to be sneezed at! And that is one of the reasons why, Mr. Speaker, I went at great pains to point out how important it is for us to give this particular Bill far more attention than has been given today.

Hon. Walter H. Roban: Point of order, Mr. Speaker.

The Speaker: What is your point of order, Minister?

POINT OF ORDER
[Misleading]

Hon. Walter H. Roban: The Member is misleading the House and the public as to the statement he just made about the concern about the workers.

This Government made a commitment in its statement of June of 2009 to preserve and ensure the integrity of the position of the Corporation workers if, certainly after the review, it would seem as if there would be some change in their work status. We made that commitment; it has been clear. So there is no need to suggest that there is some concern about their position.

Thank you.

Hon. Hubert (Kim) E. Swan: Mr. Speaker, what would it hurt? What would it hurt for this Government to slow down? What would it hurt?

[Inaudible interjections]

Hon. Hubert (Kim) E. Swan: What would it achieve if they did? Let us look at it. What would it achieve if they did?

[Inaudible interjections]

Hon. Hubert (Kim) E. Swan: I am speaking to you, Mr. Speaker. And I am going to try not to be influenced by the chirping.

But, Mr. Speaker, what would it achieve if the Government were to slow down a bit? It would achieve a number of things, Mr. Speaker. The jobs that are hanging in the balance—we would have the opportunity to go into the community and give this legislation full scrutiny, full examination, get a better understanding of what is entailed. And we would have the opportunity to get it right.

Mr. Speaker, I hear interpolations by Members, and it would suggest that people would have you believe that persons are not in favour of reform. Nothing could be further from the truth. The Corporations themselves, for any avoidance of doubt, even said it as recently as today. They are in favour of reforms, have been advocating reforms, have been living in a spirit of becoming more transparent and more open, embrace widening the franchise, see the need to do so, want to be a part of facilitating that.

This, Mr. Speaker, does not achieve that! All this has done—all it has done is further divide people, further polarise people, further alienate persons in our society.

And you know what, Mr. Speaker? If the Government had a track record of good fiscal management, if it had a track record of bringing people together, I think people would maybe even cut them some slack or give them the benefit of the doubt. But the fact is, Mr. Speaker, that the track record of the Government is part of the reason why so many people on so many occasions have found the need to put in the streets—found the need. And, Mr. Speaker, in modern-day Bermuda, that is indeed a major problem.

We have to zero in on the fact that, as it was put by someone else, this is paramount to economic strangulation. And it is. And we are calling the ambulance. And we should not have to. What we should be able to do is call on reasonable Members of Parliament to come to the understanding that all we have to do is to slow down a little bit and embrace people, bring people on board with how we are going to come up with the best type of legislation that is going to achieve the type of reform that the Corporations are working towards. That is what this Parliament should be trying to do.

That is not what has been achieved with the way in which we find ourselves here, Mr. Speaker, on what could possibly be the last sitting of this particular session. And, Mr. Speaker, I want to tell you that the amount of money that has been expended already on consultants—some $800,000, has been set aside, and I believe some $650,000, it was revealed, has already been spent on that. And to be here today without the benefit of a report—to be here without the benefit of a report, Mr. Speaker, is wrong. It is very wrong.

And for the life of me, I cannot understand why Government in its wisdom feels it necessary to arm-twist its Members to come here on the last day of the sitting—

[Inaudible interjections]

Hon. Hubert (Kim) E. Swan: Well, if no one's arm has been twisted, I am glad to hear that, Mr. Speaker. I am glad to hear that, because with that type of approach, we have an opportunity. We have an opportunity here today, Mr. Premier and Mr. Speaker, to look at slowing down, taking this legislation, and bringing it back to the consideration table.

[Inaudible interjections]

Hon. Hubert (Kim) E. Swan: Mr. Speaker, I am very disappointed [by] the interpolations that I hear from the other side, because I certainly feel that they are not taking seriously on board the concerns that exist in the wider public.

And, you know, Mr. Speaker, I listen to the interpolation by the Premier, *Our House is not on fire.* And, Mr. Speaker, for those workers who felt it necessary today to be out there in the hot sun to express concern about their future jobs, their house is on fire. For those persons who are in our community today, who are concerned about the way in which this Government has performed, and who are concerned whether or not they are going to have a job as a consequence of the way this Government has performed, their house is on fire.

You know, Mr. Speaker, I mean, we hear persons that are interpolating who would have you believe that everything is okay. And the Premier is right. He says, *No one said that.* But no one thinks that in this country, either, Mr. Speaker. No one is believing . . . no one is living that. And as a consequence, there are more people perplexed and bewildered as to the reason why this Government finds it necessary to proceed on these Corporations of St. George's and the Corporations of Hamilton.

Now, Mr. Speaker, the death nails that are being driven into these corporations started some time ago. And some of the concerns have been expressed in those particular areas with the absence of the type of concern and consideration necessary in those areas. We have seen it in St. George's. We have seen it in St. George's; I know the Premier knows ever so well the impact of the downturn of tourism, and some of the decisions that have been made that have impacted adversely on that historic town.

And some of those decisions are going to be very difficult to reverse. And the focus—or the lack thereof—makes it such that it will impact on the people who certainly would like to work in those communities and not have to commute out, and today have to do so.

That, Mr. Speaker, speaks to the heart of what this legislation does to the people who run the town, the considerations that they have to make, and their willingness to engage the Government. I see it as an opportunity, Mr. Speaker. I see it as an opportunity for a Premier who wants us to believe that he is going out.

Why not go out on a note that says, *I did something that brought people together. I caused people to embrace reform. I caused people to come to the table of reckoning. I did that, and I was mature enough, I was open enough, I was transparent enough to say, Listen. I know this could have a crippling effect. But I will just hold it back!*

An Hon. Member: Oh, no!

Hon. Hubert (Kim) E. Swan: *I will just hold it back for six months!* I mean, even if it means *you* holding it back—I do not know if people would put up with that—but even if it means you hanging around to go ahead and see it through, Mr. Speaker.

But you are coming here at the 11th—two minutes before 12, Mr. Speaker.

[Inaudible interjections]

Hon. Hubert (Kim) E. Swan: Today there is an option for this Government. There is an option for this Government, and there is an option for this House, to bring people together on this issue, to show people that, *Yes. You need to look at some of the points we would like you to look at. But yes, I am going to recognise that before I put something in place that could have the type of effect that we have seen take place in St. George's, that we know will happen in this community if we withdraw 40 per cent of their revenue* (right, Mr. Speaker?), *that we will take time and pause.*

And pause in this House means, Mr. Speaker, that maybe the time has come that we will rise and report progress on an issue.

And, Mr. Speaker, that is what I would like this Honourable House to consider today. For Honourable Members here in this House, who have to go to their constituents who are impacted by this, to say, *Yes. I had concerns about this legislation. Other Members had concerns about this legislation. Cabinet Ministers had concerns about this. And quite possibly, the best way is for us to rise and report progress.*

MOTION RISE AND REPORT
[Standing Order 29(5)]

Hon. Hubert (Kim) E. Swan: So, in that spirit, Mr. Speaker, I would like to move a motion. I propose the following amendment to the motion: That we delete the word "now" to the question, "That the Bill the Municipalities Reform Act 2010 be read a second time" and add the words "upon this day six months hence." So that the amended motion would read:

> "That the Bill [The Municipalities Reform Act 2010] be read for the second time upon this day six months hence."

Mr. Speaker, I put that motion forward on the floor of this House so that this House can take under consideration the concerns that exist in this community—widespread in this community—that there is no need for us to move post haste with this Bill today, Mr. Speaker; that the Members of this House (being expressed by Members on this side as the Opposition, and I am sure there are Members opposite that have similar concerns) take the opportunity to deal with this in the period of the next six months to look at how this legislation can be improved upon. And take the necessary steps, Mr. Speaker, in this community to spread this debate wide, to cause people in this country to come together on this issue, rather than be divided by this issue. That is the opportunity. That is the opportunity today, on the so-called eve of the departure of the current Premier, who says he is going—it is up to him to do so. And it is his call and his wish.

But I am here to say, Mr. Speaker, that I would encourage that Honourable Member to take this motion in the spirit in which it has been presented so that we can give reform a chance, give the players of reform time to buy into the spirit of reform. Do the right thing, Mr. Speaker. Bring our community together around this issue.

Mr. Speaker, you know, sometimes we have to rise above. We as leaders must be the ones to show people the way that they should go. You know, Mr. Speaker, I would love . . . I had the opportunity not too long ago to visit that great continent of Africa for the second time, but for the first time in the heart. I would love to shake the hand of Mandela. I would love to look in the eyes of Desmond Tutu. Why? Because the spirit that they embrace looks at people that did them wrong, Mr. Speaker, and shows them that there is a loving way to embrace.

This is the opportunity, Mr. Speaker, to do what is right for this country. That is the opportunity that exists today, Mr. Speaker. And I am here to say that we can make good use of six months, just like we made good use of one month on the gaming Green Paper, just like we made good use of time when we had to come and consider a deal at the last minute relating to Park Hyatt. But seven days is not long

enough! It is long enough for God to create heaven and earth, but it is not long enough for us to consider this Bill here today, Mr. Speaker. It is not good enough for that.

And so, Mr. Speaker, we ask for this Honourable House to respectfully rise and report progress according to the motion that has been put before you. Thank you for your time, Mr. Speaker.

[4 minute pause]

DIVISION

Ayes: 11	**Noes: 13**
Mr. John Barritt	Dr. the Hon. E. F. Brown
Mr. Shawn G. Crockwell	Hon. D. V. Burgess
Dr. the Hon. E. G. Gibbons	Hon. N. I. Butterfield
Mrs. P. J. Gordon-Pamplin	Hon. P. A. Cox
Mr. D. O. Hunt	Hon. A. E. DeVent
Mrs. L. Jackson	Hon. Wayne L. Furbert
Hon. T. G. Moniz	Hon. E. G. James
Mr. M. J. Pettingill	Hon. W. M. Lister
Mr. E. T. Richards	Hon. P. K. Minors
Mr. C. F. B. Swan	Hon. W. N. M. Perinchief
Hon. H. K. Swan	Hon. W. H. Roban
	Hon. M. J. Scott
	Mr. M. A Weeks

The Clerk: I did not hear you say anything. Did you. . . Mr. Tucker?

Mr. Darius D. M. Tucker: [Inaudible]

The Clerk: No? Okay.

The Speaker: The Ayes are 11; the Noes are 13. The motion fails.

[Defeated on division: Motion to rise and report progress on the Municipalities Reform Act 2010, failed.]

MUNICIPALITIES REFORM ACT 2010

[Continuation of Second Reading debate thereon]

The Speaker: The debate on the Municipalities Reform Act may continue.

Any further speakers?

Mr. Premier?

Mr. Premier has the floor.

Dr. the Hon. Ewart Frederick Brown: *[Microphone not turned on]*

Thank you, Mr. Speaker. As I did before, I ask your indulgence in allowing me to at least refer [INAUDIBLE].

I would like to just say to this Honourable House and the audience of Bermuda that there is a reason for this kind of discussion on this kind of issue every time we come to it. Not sometimes, but every time—every time, Mr. Speaker, the issue of authority is addressed in this House. You could make a tape recording of debates that have occurred in this House on other issues, with other titles, and the script remains the same. The same people support it, and the same people oppose it.

This country, Mr. Speaker—this country—

[Inaudible interjection and laughter]

Dr. the Hon. Ewart Frederick Brown: The Honourable Member Dr. Gibbons says, *What about gaming?* And I will answer that.

Gaming was not an issue, Mr. Speaker, like the ones I am talking about. The ones I am talking . . . gaming had nothing to do with authority. It had to do with choice.

What I am talking about is what the Honourable Member will have a better understanding of by the time I sit. And the reason he will understand it is because debates like this, Mr. Speaker, drive us to the core of our existence. Debates like this cause us to ask the question, *How did we in Bermuda, in 2010 get to the point where we are even debating an issue like this?*

Mr. Speaker, we are debating whether there should be a government within a government, whether there should be authority bestowed upon a small piece of Bermuda that can, in fact, counter the aims, desires, and aspirations of all of Bermuda. And that is what the issue really is.

Now, Mr. Speaker, in an issue that is so emotive, I submit that we are going to hear all kinds of arguments. We have already heard the beginning. Mr. Speaker, we are going to hear in this debate people who feel the pain of others more than they feel it for themselves. We are going to hear people who are so concerned with the loss of authority of others than they are concerned about the acquisition of authority for themselves.

And you asked that question, *How could somebody see a house on fire, not having any ownership in that house, but still saying, 'Our' house is on fire?* What brings a human being—what condition and what conditioning occurs to the human spirit that would make a human being, upon hearing that someone else is sick, say, '*We' are sick?* What causes that, Mr. Speaker? What causes people to put their entire value in relation to the value that others place on their business? What causes that? I do not know. If I had the answer, you would have the solution. I do not know.

But I know that during this debate, we are bound to hear that kind of argument. And I have said to my colleagues, in caucus, *You know, this can be an extremely emotional discussion, because for many of us it evokes the history that we do not like.* This has nothing to do with money, per se. This has nothing to do with wharfage fees, per se. This, Mr. Speaker, has to do with an adjustment reaction, the second adjust-

ment reaction. The first one occurred in 1998. And when we were on the verge of winning an election, Mr. Speaker, after years of trying, the Honourable Member, Dr. Gibbons, is quoted to have said (and I do not know because I did not hear him say it, but he is often quoted to have said), *If the Progressive Labour Party wins this election, then we can consider it "lights out" for international business.*

Dr. the Hon. E. Grant Gibbons: Mr. Speaker. Mr. Speaker.

Dr. the Hon. Ewart Frederick Brown: He is reported to have said that.

Dr. the Hon. E. Grant Gibbons: The Honourable Member is misleading this House.

The Speaker: Is there a point of order?

POINT OF ORDER
[Misleading]

Dr. the Hon. E. Grant Gibbons: It is a point of order. He is misleading the House. I said nothing of the sort.

The Speaker: Right. He denies it.

[Laughter]

The Speaker: Carry on, Mr. Premier. He denies that he ever said such a thing.

[Laughter]

Dr. the Hon. Ewart Frederick Brown: Yes. Well. Mr. Speaker, if I thought you had time today, I would ask you to ask the Honourable Member, *What did he say?*

[Laughter]

Dr. the Hon. E. Grant Gibbons: You will hear from me in a bit.

Dr. the Hon. Ewart Frederick Brown: No, no. But I want him to address that particular comment because I have assumed (and maybe incorrectly) that the Honourable Member did say something of the sort. And if he did not, I would like not to misquote him.

No, I said, *he is reported to*—just like they do with us, Mr. Speaker. Here comes the turnaround now.

The Speaker: They do get it wrong sometimes. I do know that.

Dr. the Hon. Ewart Frederick Brown: *Informed sources say . . . Party insiders who refuse to be identified say* . . . all of those things. And so we, too, understand the use of the language. But I said the Honourable Member was reported to have said it (and someone said it), that if the PLP wins the election in 1998, that, essentially, business would go away.

[Inaudible interjections]

Dr. the Hon. Ewart Frederick Brown: Mr. Speaker, the Honourable Member and I have disagreed on many occasions. And I have come to the conclusion that we will take that to our graves, as an eternal disagreement on certain political issues. I accept that. But it is true, Mr. Speaker, that somebody said that if the PLP would win the election, that international business would go away.

Now, Mr. Speaker, let me fast-forward, if you will.

[Inaudible interjections]

The Speaker: I think I hear better than that.

Dr. the Hon. Ewart Frederick Brown: And let me fast-forward, Mr. Speaker. The lights were going to go out in 1998. Business would evaporate. Fast-forward to 2010. And now it is, *The trash will pile up.* Mr. Speaker. An ad in the newspaper, in the daily newspaper yesterday, under the headline "Cancelled," listed a number of activities that the Corporation of Hamilton said would be in jeopardy if this legislation passed. And at the top of that list, Mr. Speaker, was Bermuda Day. Bermuda Day! A national holiday celebrated in different ways by all of Bermuda on a national holiday. And the Corporation says that it will be in jeopardy, as will Harbour Nights and a number of other things, if this legislation passes.

Mr. Speaker, that is the height of arrogance. But it shows you that the Corporation has not found its proper place relative to the national Government. The national Government has said that there will be a Bermuda Day, and there will be a Bermuda Day whether there is a Corporation of Hamilton or not! And people need to understand that that is what this discussion is really about.

You are going to take Bermuda Day? You are going to control Bermuda Day? And the national Government will do what, Mr. Speaker? Sit idly by and just not have it? That is not our role.

Mr. Speaker, I will tell you that much of what you have heard already in the debate is scaremongering. And the issue about, *Why are we rushing it?* You know, I have been around long enough, Mr. Speaker, and I have been in enough struggles to tell you that I heard that in Cambridge, Maryland, in 1964, when we were trying to integrate a lunch counter. And they told us it was too much at one time—*One Negro per month*.

And, Mr. Speaker, justice delayed or deferred is justice denied. There is no timetable that you have

to meet in order to achieve justice. Is there not some sense of indignation that this system existed thus far? There must be, Mr. Speaker, because the current leadership of the Corporation has pointed to all the modern steps that it has taken and all the changes that are being made. Therefore, there is an acknowledgement that they are not starting from a good place. And, Mr. Speaker, if in fact these things were wrong, then why were they not addressed before now?

But were they addressed, Mr. Speaker? Oh, yes. In 1974, the United Bermuda Party Government took steps to change the authority of the Corporation of Hamilton. This did not start with the PLP. I tell people, *And if the UBP tried to do it 36 years ago, you know we have got to do it.*

Mr. Speaker, in 1974, as a result of that, that is how the Ports Authority was started. The Honourable Member, Minister Roban, served for years as Chairman of the Ports Authority. That did not exist before 1974. And through that Act certain powers were carved out for the national government and certain authority was left. And no Green Paper, no White Paper, nothing but a rush. Nothing but a rush, Mr. Speaker.

The Honourable Member, Mr. De Silva, deserves to be commended. That Minister deserves to be commended for having the fortitude, the willingness to take on something weighty. And, it is a shame that two things happened since that Minister took this issue over. One was this reference in recent weeks to the *Brown-De Silva takeover*.

Mr. Speaker, first of all to personalise such a major issue . . . and the Opposition has agreed that this is a major issue, something that deserves to be delayed for six months. Well, if it is so important, Mr. Speaker, why is it personalised? Why is it that *Brown-De Silva* . . . unless that is just "Division Man" rearing his ugly head.

Mr. Speaker, the second thing that happened with that Minister that I want Member in this House to know is that today, about two hours ago when he was attempting to take his wife and son to lunch, they came around his car and beat on his car, and called names out to his wife. You know? Shameful behaviour, Mr. Speaker. And I am not associating, necessarily, those people with the Leader of the Opposition simply because they may support him, because I do not think that a politician is necessarily responsible for the actions of his supporters, like Andre Curtis.

And so, the thing is that you, Mr. Speaker, know—you know that it is entirely out of order—it is entirely out of order for members of our community to do that to a Minister and his family. But that is the kind of environment, that is the kind of atmosphere that is generated when issues like this come on the table. And those of us who raise the issue have been described . . . I heard the Honourable Member Mr. Barritt, during last night's free commercial on television, say that it is divisive.

[Inaudible interjections]

Dr. the Hon. Ewart Frederick Brown: Go watch the tape.

Mr. Speaker, that this exercise was an exercise in division, or divisiveness. I saw it.

Now, the point I am making here is, When did the divided become the divisive? How does that work? When did the divided become the dividers? Mr. Speaker, I think that that is a most unacceptable and inappropriate tag to put on people who are simply trying to modernise Bermuda.

The Honourable Member, Mr. De Silva, has said that we should try not to debate this Bill in an atmosphere of hysteria; that we should try to stay focused. But there has been resistance that has not been mounted on the merits of what we have said, but on who said it. And that often happens in politics. It happens all the time, not just in Bermuda. One person can say something, and it is considered to be wise and correct. And another person can say it, Mr. Speaker, and it is considered trivial and unimportant.

Mr. Speaker, it was two years ago. Let me tell you how fast this has been. And I admit, Mr. Speaker, I have said it before in this House, and I will say it on what could be my last day in this House: Nature did not bless me with patience. I am an impatient human being. But we have been talking about this since June 2008—two years. Mr. Speaker, if it can be characterised as being rushed after two years, it could be rushed after twenty-two years, because surely two years is enough for Honourable Members and the public to get a general understanding of what this is all about.

Mr. Speaker, I do think that it is important to spend time talking about the major adjustments . . . and by the way, Mr. Speaker, you know, often we are criticised for not being willing to compromise. But if this piece of legislation does not represent compromise, there is no such thing. But you see, what I want younger politicians to see in this is, even when you compromise—even when you compromise and think that it is going to be more palatable and gain you some support, it does not happen, because you are taking away authority.

I do not care what you spray on that. I do not care how long you take to bring it to the House. I do not care how long or short the Bill is. If the bottom line is that you are decreasing somebody's authority, they are going to declare un-readiness. It is just nature. And so all of the discussion that we have had and are going to have, Mr. Speaker, will be boiled down to that. *I have had something. Forget how I got it; it was a long time ago. I have perpetuated it. I have created economic success out of it. How dare you? How dare you come to me and say you want to take some of this away.*

Mr. Speaker, I just left South Africa. And aside from the World Cup celebrations, I also had the opportunity to talk with South Africans, black and white, about some of the changes in their country. And I was asking them, *How are you guys coping with this?* And one gentleman made a very astute observation. He knows a little bit about Bermuda, and he said: "The difference in South Africa—when you all thought we were further behind than you—the difference is that we have such a sharp line between our communities that, once the law changed, we had no choice but to sit down, one on one, at the negotiating table, and make an arrangement that we could live with. And that was critical."

I am not going to get into why the ANC commands such respect in South Africa and all of Africa. But a lot of it had to do with their strategic changes in the '80s. And nobody wants to go back to that day.

Mr. Speaker, the Honourable Leader of the Opposition says that we are forgetting the human impact. He says, you know, people are going to be affected. Well, duh. That is what we do. That is what we do here. We are lawmakers. We make laws. And we affect people's lives. That is what FutureCare is. That is what day care is. That is what free transportation is. It is affecting people's lives. So we, as a Government that has done quite a bit to affect people's lives, understand that this will have an impact on people's lives.

But, Mr. Speaker, let us take the workers in the City of Hamilton who help us keep the city clean when they picked up the trash. Mr. Speaker, the Honourable Member, Mr. Derrick Burgess, the Minister of Works and Engineering, has a lot on his plate. And he has a whole spectrum of responsibility. Mr. Speaker, am I hearing that this Minister, who picks up the trash for the whole Island, could not get it done in Hamilton? I hope that is not what I am hearing, because then we get down to some DNA issues. But, why not? Is that some "lights out" again?

You know, there are things that the Government can do.

An Hon. Member: And are doing.

Dr. the Hon. Ewart Frederick Brown: And are doing, and will do. Mr. Speaker, the Government handles much of what goes on in the city already, in terms of funding, in terms of processing. The Government already does it. So we understand the human impact. We are not ignorant to that. We understand it.

Mr. Speaker, I remember once before when I went to Government House, around 2002 before which time there was no one man, one–vote, each vote of equal value, in this country. Now, I hope, Mr. Speaker, that we have an agreement, because I do not want to misspeak. I believe that that was the case in my country until 2002. And I will sit down, if any Member would like to take a point of order and correct me.

In 2002, there was a meeting at Government House, and standing room only, Mr. Speaker. I remember that night like I remember some other nights. It was like I was thrown back in time. I saw anger on people's faces. I saw warnings. I heard people saying that if we had in Bermuda one man, one vote, each vote of equal value, that that would turn Bermuda into a dictatorship.

[Inaudible interjections]

Dr. the Hon. Ewart Frederick Brown: I heard it! I heard it.

[Inaudible interjections and general uproar]

Dr. the Hon. Ewart Frederick Brown: Mr. Speaker, they do not get it. It does not matter what it is on.

Making a democracy fuller, making a democracy stronger, making a democracy broader in no way equates to a dictatorship. But what those people were speaking from was a core of fear. They feared that the majority of the population in Bermuda, if given the full array of democratic rights, would abuse those rights and turn the country into a dictatorship.

And if you read some of the blogs, especially the racist blogs . . . if you read them, you will see, Mr. Speaker, that many of them believe already that they have been so stripped of their authority and their rights that Bermuda is already a dictatorship. But, Mr. Speaker, privilege exists in every society. But, Mr. Speaker, unearned privilege must be eliminated. Unearned privilege has no place. And the country must move towards that scenario.

Some people, Mr. Speaker, have called our reform efforts all kinds of names. But that is all this really is. I mean, you know, pardon me, Mr. Speaker, but I cannot put this in the revolutionary box. This is really nice. This is reform, trying to make it liveable, trying to take into account that, if a business owner wants to have an impact on the political process of the city, he or she participates in the elections of the city, with no preferred position.

Imagine if the businessmen and women in New York City ran the city, or had special preferred positions. No! They select a candidate. They support that candidate, and they hope that that candidate will represent their causes. That is democracy. No special invitation because you are in business.

So, Mr. Speaker, even though we expect that we will hear that this Bill is designed to take away people's rights and strip them of their profits and their assets and what-have-you, let me make it clear. Parliament caused the Corporation to be a legal entity. Parliament did that. And that is why we have come back—

The Speaker: Premier, you have two minutes left.

Dr. the Hon. Ewart Frederick Brown: Thank you.

That is why we have come back to Parliament to make the adjustments.

Mr. Speaker, in the time that I do have left, I want to just try to point out that the road to change is often not smooth. It takes strong men and women to make real change. And there is no lost opportunity like the opportunity to make social change. And once it is lost, Mr. Speaker, it is lost for a long time. I urge my colleagues to speak to this issue with passion and fervour, and to go forward and put Bermuda where it should be.

Thank you.

[Desk thumping]

The Speaker: Thank you, Mr. Premier.

Any further speakers?

I now recognise the Honourable and Learned Member, Mr. M. Pettingill, from Warwick West.

Mr. Pettingill has the floor.

Mr. Mark Pettingill: Thank you, Mr. Speaker.

It had been my thought to perhaps lay in the tide longer. But I think it is important that I rise at this juncture to set out the position of my party, the Bermuda Democratic Alliance, and certainly some of my personal views which I feel are reflected in the colleagues of my party.

Let me start by saying that I think there are two issues that I wish to canvass here today. The one issue, which we have heard a lot about, relates to what has gone on in relation to this debate, both prior to the debate over the last couple of weeks, and today. And I would be remiss—in fact ashamed and embarrassed—if I did not speak to the issue of what has gone on in relation to this proposed legislation, the campaign that has been mounted.

The other issue which I must also speak to (and perhaps the Speaker would be good enough to curb me on half and half, because I can probably make it go that way) is the issue of what we are all here for, what the law is, and what the law should be.

When I hear the Honourable Opposition Leader stand up and talk about reform, and I look at why the Bermuda Democratic Alliance sits around here in the form that they are in, and I hear the lines about, *Well, let's take more time and look at this, and more time, and we will get to reform,* and all the rest of it, we left the United Bermuda Party because the reform that was promised just was not coming. And a year later, I have not seen it come.

So I have a little bit of a hard time when we start talking about, *Let's slow down and make sure we get the reform right,* and all the rest of it. And only I say this: I am not saying that that may not be called for in some instances. I am not saying that it may not, in fact, have had its place here. And I voted earlier with my colleagues on the basis, because we issued a statement this week for our Leader, who is in the House . . . in the precincts of the House (I am hoping that soon enough he will be in the House, but he is in the precincts of the House), who issued a statement to say that, you know, we wish to look at some issues and all the rest of it.

But I say this: We got invited by the Government to sit at the table of discussion.

An Hon. Member: Absolutely!

An Hon. Member: Of course!

Mr. Mark Pettingill: And have our input. And it continued through the whole of the week. And invited to have amendments. I am understanding that that invitation was open to others.

An Hon. Member: It was!

Mr. Mark Pettingill: And declined by others? I do not know if that is the case or not. But we were there.

[Inaudible interjections]

Mr. Mark Pettingill: We got invited. We got invited to attend at the Mayor's office, and we were there to listen to what they had to say. So we had the—I would like to say the *luxury* of being in the position of being in the middle. But I could tell you, Mr. Speaker, that the discomfort that I have felt this week, it does not feel like much of a luxury to be sitting here in the middle between the poles—not at all—[with] the push and the pull of what has gone on.

And that is why I have two issues to speak to. Let me stay on the wicket on the first one. The issue should be about the law and what we need to do and what the history is and how we need to improve as a country. Once we, one side or the other (and I will deal with the one side now), personalise the issue and try and be clever and call it the *Brown–De Silva* Bill and put up banners on Front Street and take out ads in the paper and stir it up and spin it out with language that does not actually reflect what it is about, to try and whip up people emotionally . . . I do not want to be a part of that in this country any longer.

When I walked down the Hill today . . . and let us be frank about it, because the Honourable Opposition Member said he wanted to thank the workers that came out? I saw 200 white people of privilege standing on the Hill, and maybe a spattering of a few workers. And I walked down and made sure that I was across the street with my colleague Donte O. Hunt, so as not to be lumped in with the protest on the Hill.

When I see a Minister—agree or disagree—of this country, driving his car out with his family, his wife, son, the car being surrounded and shaken as he

is leaving, being called to the chant of "Coward! Coward! Coward! Coward! Coward!" and people want to say, *We need to get things right in this country and bring about change,* and my own people that are calling that, the white people of that particular extreme wing and ilk cannot see how that type of conduct divides us further . . . Mr. Speaker, we are never going to heal in this country unless that group of people start to get it and reform!

[Desk thumping]

Mr. Mark Pettingill: And you can go on and criticise all you want about what the law is and should be, about *what Brown's done this* (no disrespect) *and that, and De Silva, this and that*. And you may have points about not liking style or approach or attitude or all the things they have. You may! You may well have good points. But until you can stop and reflect on yourself and say, *What am I doing to bridge the gap? What am I doing to be the change?* Not, *What are they doing?* but, *What am I doing to be the change?*

When you stand to support the banging of an Honourable Minister's car with his family in it . . . I do not recognise or remember in the history of this country when any group of black PLP supporters surrounded a black Minister's car of the UBP and banged on it and called him names and chanted up the street! No, I was younger. I watched all of those things. I do not remember that. Call me out on it! Because I do not think it ever happened.

We have to *be* the change that we want to see in the world, white and black.

You know, that Honourable Minister, Mr. Zane De Silva, is a friend of mine. We disagree on political issues. The Honourable Premier (I have no issue at all with saying openly), I would like to think, is a friend of mine. We disagree on issues. His wife is a friend of mine. They are my neighbours. The Honourable Minister's wife, Zane De Silva's wife is a friend of my wife and me. We do not disagree on everything. And we disagree on a number of things politically. And we can even maybe get charged about it. I would like to think it is intellectual, it has dignity, it has etiquette, and it has respect. It does not have me banging on their car.

I was ashamed to be a white man in this country today when I saw that. But I am going to get over it because I was not part of the crowd. But I know why I left, and I know why I am where I am, because of the concerns that I have and the perceptions that exist. And if people, for all the strength of the argument, stand next to that, you will be tarred with that brush. And that is why I crossed the street with my Honourable Colleague Donte O. Hunt, walked around the other way.

We cannot have these types of campaigns on an issue where we run it out a big glossy in the paper and say, *Cancelled: Christmas Day,* basically! You know, you are bringing a law . . . *Everybody out there, come and march because the Government is bringing a law to cancel Bermuda Day!* Huh? When I saw that I was like, *Come on, you guys.* Let us be real about it. Let us be real. Let us just everybody get real and understand the perceptions. I am coming at it from both ends, so do not think everybody is like . . . I am coming at perceptions from both ends.

But when I sit down in the Mayor's office, because we were invited to be there, and I see the people there, and my colleagues and I are wondering, *Where is the black businessman from the back of town in this committee?*

An Hon. Member: Not there!

Mr. Mark Pettingill: I did not see him.

An Hon. Member: He was not there.

Mr. Mark Pettingill: And I do not think he was absent. I do not think he was voted there.

So I understand—and this is the key—I understand . . . and people will say, *Well, that is the way it is. They were voted. That is fine. There was no race issue.* I am sure there was not. It is the perception. It is the perception. And we—I speak of white people now, privileged white people—if we do not get that perception, we are never going to help to bring about the healing that we need in this country, if we just stand there and say, *I cannot bring about inner change. I cannot do this. You know, this is just, they are there, and I am here.*

I had a chat with the Permanent Secretary today, Mr. Marc Telemaque. I have a lot of respect for him. We are colleagues. We go way back. We were in law school at the same time. And, you know, I made the comment that he really understood, like we have to force ourselves to walk a mile in someone else's moccasins. And we might not agree with all that they have to say, with all they are doing, or even the way that they are going about it. But we need to do it so we get a feel for the perspective that they have on and the way that they are looking at it.

If those people think that that march, that these ads, that that spin, that those signs, that that chanting at that Minister, that those comments help . . . what it does is this: It galvanises a certain support that is right around you that is not going to change anyway, and becomes a lot of noise that does nothing to bring about change.

The trouble with all of us—both parties, all of the parties—is that we all have our extreme ends that are not prepared to move and sit down and change. And those extreme ends cause difficulties. The PLP extreme end does it as well; they know they do. They spin rhetoric that can be hurtful or offensive or whatever. But I understand why. I understand why, because they were both there slinging it back across at

one another, Mr. Speaker. It is going to keep slinging, it is going to keep going, it is going to perpetuate!

Stop! For the love of God, stop! Make it about the issues. Leave the personalities out of it. Look at the core of it. Understand it. Read it. Look at the history. Be well informed. Stop this personalising of things as they go forward, or else we will not heal. I hope that the Bermuda Democratic Alliance is here because this week I felt, we felt, myself, my colleagues, like we were in some position of mediation, of being able to be welcome in all the doors to sit down and talk about the issues with respect, with understanding, and to disagree and to not disagree.

You know, maybe other people were not invited and maybe they were. But like, at least we were invited. And we got to listen, and we got to think, and we got to say, *Well, here are our views.* And I do not think that necessarily all of our views are going to be accepted or, you know, where we are going to end up. But the conduct and the way that we went about it in the Bermuda Democratic Alliance, through our Leader, our Deputy Leader, my colleagues here, is surely the way that we need to be moving in this country.

Until we all start to realise that that type of hype and personal attack is just going to make people dig their heels in, make the Government dig their heels in . . . the history is not that long ago. They know the facts, and they are going to dig their heels in—as the Premier says—to the dying day. To the dying day, until somebody stops and says, *Well, hold on a second. Let us hear what you have got to say, hear what you have got to say. I appreciate where you are coming from, and let us make some change.*

I had to speak to that first, about the campaign in relation to this, because it has left an ache in my heart of what has gone on and the way it has gone on. I even advise people, *Do not go about it that way*. *Do not personalise it. If you have got issues, stick with the law. Get your advice. Do not mount this kind of insidious campaign of name-calling and all kinds of things, marching around with signs and so on. Do not do it! It will not help your position of where you want to get to. It will not achieve anything.*

I do not know if people even now are going to listen to that. Hopefully, they will and see that it has not achieved much. Hope springs eternal.

Let me say this now on the second limb, having said all of that, on the issue what the law is and what the law should be.

There is no question. I will tell you a story, a true story, Mr. Speaker, of course, about a young white lady that came up to me on the street today, up to my colleague Mr. Hunt and I while the march of the workers [INAUDIBLE] was going on, while the march of the people on the hill, concerned, was going on. And she said, *You know, Mr. Pettingill, there stands and cries the last vestiges of the 40 thieves kicking and screaming into the 21st century.* That is what she said, a young white lady. *There stands and screams the last vestiges of the 40 thieves kicking and screaming into the 21st century.*

[Inaudible interjections]

Mr. Mark Pettingill: And the person who said . . . It is important who said it, right? Because she at least recognises it for the *perception* of what it was. And she did not want to be a part of it. And that is the perception.

So what we all agree on is that reform is well overdue, is well overdue. Reform has happened in this country over the last decade or so with regard to a number of things, over the last two decades in regard to a number of things. Have we taken too much time, Mr. Speaker, to get to where we need to go in the history of our country? We sure have. We sure have. And are we going to get there tomorrow? I regret not. I do not even know now if we are going to get there, God willing if I had a long lifetime, if we will get there then. Maybe my children. Maybe my grandchildren. Maybe my younger son. Maybe so. Maybe so. Maybe we will.

But we have already travelled a long road to try and get to where we are going. And we still need to search out and seek and address reform wherever it is needed. Does the issue of the Municipalities Act 1923 . . . did it need to be addressed? Did it need to be reformed? Can there be any [answer] other than, of course it did. And of course it does. And we need to look at it and address it.

Now, what is the address? Because the big issue on this Bill . . . I mean, you know, it got branded as the *Takeover Bill*. Right? It is not even that big. And people look at it because they are trying to look beyond it and say, *It is all about them trying to take it over, and take it over, and take it over, and so on.* And, you know, you can see where, reading between the lines, you could make points for that. You could jump up and down and say, *Well, this is what this will lead to, and that is what this will lead to,* and so on and so forth. Okay.

But what is the Bill about? Well, it is entitled the Municipalities Reform Act. I never saw it called that once in the campaign, I have got to say, in the campaign to deal with it, the Municipalities Reform Act.

And the section that has caused much of the ire is the fact of the extension of the franchise. And there can be no question, in my humble view, that the franchise as it has been needs to be addressed and changed, because, surely, what we all want, and what the Government and its Minister have spoken to many times, is to ensure democracy and equality and reform where we need to have it. So the extension of the rights, which is what section 3 does in the Act, of extending the right to those that live within municipal areas, makes sense.

Now, let me pause there for a second. People have to stop and think that, on the basis that municipalities are a special area, because they are cities. And they have special needs. And the people that spend their time within those municipalities and are a living part of it on a daily basis are the ones that should have the say in what goes on there. So when we look at that, the redress has to be that all of those people (and I am using some legal jargon here, but it is kind of the common man's jargon as well), all of those people that have an interest in that area, the City of Hamilton, the City of St. George's, should surely have a say in what goes on. And that must extend to those people that are resident there. No problem with that.

We had the comparison made to us the other day about, there was a time in this country when only landowners were allowed to vote (And really, that is kind of what the analogy has been saying is what the Corporation is) and kicking and screaming in the day that changed to allow for votes for all citizens of the country. It was expanded, the franchise was rightly expanded.

But here is the point: The vote was not taken away from those landowners; they still had the right to have their vote as well. But as we went on, they still had the right, in the course of time, to have a single vote, as it developed.

I think the key that we need to turn our minds to, and the model that I have, on invitation, tried to present to the Government, Mr. Speaker, is the model that I like, that of the city of London, where what they have done is allow for the vote for the parties that have a true interest in the running of the city. And that includes the citizens; the employees within the city; and business owners, to a fair degree; and tenants, to a fair degree—so, four categories.

So we in the Democratic Alliance, as we have said, think that, yes, we are all for the expansion of the franchise. We embrace that. We think that the franchise expansion needs to go further than it does in section 3 of this particular reform. And at a brushstroke in this House today we can fix that. And I intend to submit to Honourable Members a way in which I think we can bring about that equality of expanding the franchise and all be on the same page, because one can only support a concept of expanding the franchise from what it was.

But we also, I think, have to ensure that we get that right and that we represent the rights of all people. And you know what, Mr. Speaker? "All people" includes those 200 people that were here in the march. As much as they may have annoyed, embarrassed, made me angry today—and I'm sure other members—as much as that, to truly be where we want to be, we have to include them, too.

An Hon. Member: If they are eligible.

Mr. Mark Pettingill: If they are eligible, of course. If they fit the role, if they are on the Parliamentary Registry, if they live in the city, they own business (the Member extrapolates; I am obliged), but we have to include them.

Now that is, in my respectful view, true progress, not just the ability to bring about the extension of a franchise, but to say, *We shall also include the people that offended us for so long, and even as of today offend us now . . .* that they should be included. That is democracy. That is equality. That is what our Constitution speaks to.

We have not always got it right in this country. And we need to get it right now. And I hear my honourable friend saying, *We have no problem with that.* And if we have no problem with that, we, as in "all of us" as a "we" . . . then I believe that when the amendment that I am prepared to place before the House can be embraced by the legislation, because it will extend that right to all of the people—whether we like them or not, whether we have a gripe with what they have done or not, whether they represent the last vestiges of things that we find deeply offensive—that we can still say they have to have that right.

We have to look to others for the lead on that, other countries and other jurisdictions. And that is why, as part of the research, we said, *Well, let us look at where else the approach is made with regard to being as inclusive as it can be.* Because if we say we are going to extend the franchise, Mr. Speaker, but at the same time we are taking it away from people who, arguably, have a right to be represented within that, I have concerns.

When I look around this House and I see the Honourable Member Blakeney losing his vote, and my honourable friend Donte O. Hunt losing his vote, and my friend Mr. Wayne Furbert losing his vote, Mr. Lister losing his vote, and me losing my vote, and maybe a number of others losing their votes, I'm thinking, *Well, hey, guys, we are kind of disenfranchising ourselves here*—because I will not be running, whether I leave this place or not, for a municipal seat. But I might like to have a say in how it goes down because I have a lot of interest in this city. I spent a lot of time here. I will probably be working here late tonight, like I do many nights.

I probably spend more time in the city than I do in my own home. So I really would like to have a say in what goes on here, a special say because it is a special area. This seems to be the divide—a special say, like it is in other places, because a municipality is a special creature, a special creature.

So I think that if we really truly want to head in the direction, that that will be the amendment that we need to embrace. I also feel that when we talk about wharfage issues, you know, as far as law, that this is an easy remedy with regard to concern. I see what the history was of it. I look at the Act. I see the power being taken away from the Corporation, and so on and

so forth. I see the argument for that, and I know what the collection issue is.

What I think we have to address in that area is, well, who is now responsible for the collection, and how will the money be given back to run the Corporation—or how I say, it *should* go back to the Corporation—on a budgeted submission like any other department? And I think that if we had that contained within the Act . . . and these are simple things to amend. If we had that contained within the Act, then I really think we are on a very, very good page with regard to where I hope we all want to be. Certainly, I speak for myself and the Alliance, and I think, from what I am hearing from the Members of the Government, even by extrapolation, we all want that.

I do not think it is enough . . . and it will take a degree of forgiveness and understanding. What a great statement to be able to say, *Despite my car being shaken with my family in it, and despite the issues and the signs against me, I realise that those people that are eligible that marched and had those things to say . . . I might not like them. They might be distasteful people, some of them. They might be offensive. But they still have a right. And I will ensure and guard their right.*

I think that if we can get to that today, or they are going to have to eat some humble pie, Mr. Speaker. But, you know, even if they do not, it is not about making them eat the pie. We know that we will have done the better thing, and the right thing. They may think . . . and I am telling them it is not the case, that somehow all that campaign jumping up and down nonsense did something for them—but it did not. We look to the far bigger picture and what was right, and what was right in the law, and what we needed to do, you know, as a people to make this right.

Because I will say here and now on principle, of what went on in relation to this, on principle it would be very hard to vote against the Government trying to bring forward something that brings about reform. But by the same token, and what my own struggle has been, is that we really should, then, endeavour to be as right and as just and as even-handed as we possibly can in doing this, even if we are extending it to those that have done us wrong, to those that have not served us well, or to those that have caused us insult to injury.

That is really taking things to a greater level, Mr. Speaker. And I believe that that capability rests within this House and within that support. And that is why I wanted to stand and speak at this time because, as the book says, there is a middle way. There is a middle way, and there is often the best way. And what we have tried to do and what we want to continue to do, from the Alliance standpoint, is find a middle and a better way where we can truly say we are representing the interests of all citizens of our country.

Mr. Speaker, with that I will take my seat. I will wait until the committee time. I am obliged.

Thank you.

The Speaker: Thank you, Mr. Pettingill, the Honourable and Learned Member from Warwick West.

Any further speakers?

[Inaudible interjections]

The Speaker: Well, when we get into Committee. He is talking about amendments to the clauses in Committee.

An Hon. Member: Okay. Thank you.

The Speaker: I now recognise the Honourable Member Ms. Gordon-Pamplin from Paget West.

Ms. Gordon-Pamplin has the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Speaker.

Mr. Speaker, I am pleased to be able to contribute to this debate today on the Municipalities Reform Act 2010, for the simple reason that many people may not realise I am, not just at heart but in reality, a city girl. I was born on Victoria Street. My family lived there, and my family has other city real estate. So the terms and conditions under which the Corporation operates are things that are very intimately known to me and have been since I have been a young child.

Because I can tell you, Mr. Speaker, that as a child of a family where funds were very limited and where Corporation tax was part and parcel of what was required in the budgeting process, the Corporation taxes formed to my mind, in retrospect, my dinner on some occasions. Because when the balance had to be struck between whether the bill was paid or whether there was an extra apple on the table, Mama always said, *The bills have to be paid because your credit is more important than anything else.*

So, I can say that as time went on and as I grew, I have to tell you that I was a little concerned at the idea that Mama had the right to vote as a worker in the Corporation, but I did not. So, hence, the idea of reform from a franchise perspective rings very, very true with me. I recognise and justify the inability to vote at that time because, really, it was Mama who was paying the Corporation tax. And albeit I was contributing to the funding of the home (on a very limited basis, because my mum was more than fair with us), I never really had to write the check to pay the Corporation tax, and therefore it never really became a major, major issue.

But at the point that we recognise what equality is all about, and we want to recognise that reform is required, such that anybody who lives within the municipality who would be on an electoral register under normal circumstances on a national basis, ought to have the ability to vote in a Corporation election if they

are resident within that Corporation. And I have no problem with that.

It is my understanding that with some of the advances that have been made within the Corporation and, certainly, under the umbrella of the new Administration that we have seen take its place at the helm of the Corporation, some of these recommendations have been made. They have opened some of their meetings. And I am speaking now specifically to Hamilton. The recommendations have been made. They have determined that it is, obviously, important to open their meetings, to be more democratic and to be more transparent.

So from that perspective, I applaud the steps that they have taken. Are these steps a long time coming? Absolutely they are. Can we support them? Absolutely we do, and absolutely we must.

But, Mr. Speaker, in the presentation of this particular Bill what we find is that on the one hand, by trying to ensure that there is a democracy and a balance, in effect those people who would contribute more significantly to the revenue of the city are getting left out of the equation. And I do not care how you slice it; that cannot be right.

Corporation taxes are paid. They are levied and paid by businesses. And you are going to say to me, Mr. Speaker, that because the Government is more concerned that every single resident who is on a Parliamentary electoral register gets the opportunity to vote, but the people who contribute a significant portion of taxes in the funding of the Corporation do not have a right to vote? That cannot be right—cannot be right! Taxation without representation cannot be right.

We see that inequity as it arises, Mr. Speaker, in the case of many guest workers who are required to pay the necessary taxes that they have into the Government coffers, and woe betide if they open their mouths to say anything! We have actually seen the challenging of an individual, a Bermudian, in the course of this discourse over the past week, who had the audacity to sign a petition that was put by the Corporation in support of the Corporation's position, and the employer being accosted—that is the only way to describe it—being accosted by a Minister of Government to explain the actions of, not just their company, but the actions of their employee. How dare that happen! How dare that happen! What difference does it make?

Do we not in this community have a freedom of speech that is guaranteed to us by our Constitution? Or is our freedom of speech extended only to the point that if what we say rings well with the Government, then we can say it, and if what we say does not, then we are shut down? Cannot be right. So I am not supportive of the idea of people paying taxes into the Corporation and not having the ability to vote.

I have a problem, as I said, with people living in the city who would normally form part and parcel of an electoral process. Yes, they ought to have that ability. And I am glad to see that it is coming to that point. But, you know, there are times, Mr. Speaker, that as we attempt to fix a problem, we break it a little bit worse. Because in the attempt of a government to stamp out the vestiges of the plus vote and the property vote and all the inequitable things of which they spoke, both in the Ministerial introduction, as well as what we have heard by the Premier and by the Honourable Member who just took his seat—those things that prevail—we want to fix those things that are egregious. And we support that.

But how can you fix an inequity by creating another inequity? And I say that because the port dues, as this Bill would show, for Dockyard, for Heritage Wharf, are vested in the West End Development Corporation, which is an entity that is appointed, hand appointed by Government—not elected, appointed. But they get to keep the port dues for that part of the country, when in fact the ports of Hamilton, when the Corporation owns those properties, they do not get to keep their revenues? Something has got to be wrong with that picture! You cannot have it both ways.

If we are talking about equity, let us make it equity all around. The WEDCO did not pay a quarter out of WEDCO's budget in order to have those docks there. So if the revenues from Heritage Wharf are able to inure to the benefit of West End Development Corporation, then it does not make any sense that the property that is owned by the Corporation ought not to generate the revenue that it ought to generate because they own it.

[Inaudible interjections]

Mrs. Patricia J. Gordon-Pamplin: In the Ministerial Statement, it says, "This Bill will also address the issues by ending the ability of the Corporations to levy those charges based solely on their ownership of the Island's ports."

Now, Mr. Speaker, this is saying to me that, as the landlord, *How dare you charge rent? Do you think you can charge a tenant rent based solely on the fact that you own the house?*

What is the difference? When you invest money in an asset, you expect that asset to be able to give you returns, and as part of those returns, go into the coffers for the provision of services in the city. The city of Hamilton, in particular (and I will speak in a moment to the town of St. George's) . . . but the city of Hamilton is the nerve and business centre of this community. And within the nerve and business centre of this community, there are certain basic services that must, of necessity, be provided. And, in so doing, Mr. Speaker, they have to be paid for.

So, when the Minister gave his introductory Statement indicating that, you know, there is not going to be one comma, one full stop, one semi-colon that is going to diminish the assets of the Corporation, how does he anticipate that that would be done?

I know we did say the other day [when] we gave congratulatory messages in this House to an individual who the Honourable Member indicated was actually in his class. And he said, you know, this individual is an accountant. And all I could say is that the Minister has figured out a way that I understand why it is the colleague who became the accountant and not the Minister, because it seems to me that all the math lessons must have been absorbed by the other individual and did not leave any left in the class for the Minister, because if you can figure out how you can reduce revenues by 40 per cent and still be able to provide the goods and services that are demanded by a vibrant municipality, I want to know how he does it. Because I would like to be able to have 40 per cent less revenue and still be able to keep the lights on, Mr. Speaker. It does not happen. And that is the reality of it.

So when one says that there is not going to be any long-term impact with respect to the employees of the city of Hamilton, I want to know how will the Corporation of Hamilton still be able to pay those people who are doing the garbage collection, and who do a sterling job of it, and who are out there morning and night to ensure that the city is appropriately cleaned? Where is the money going to come from to pay them if the money is not coming into the coffers? You cannot have it both ways. And you cannot diminish the ability of earnings and then to say, *Just because they own the property?*

Now, the way I see it, and I may be wrong; Members of the Government can correct me if I am wrong. But I see it that the Government looks at the Corporation as being a cash cow. They have said they do not even believe the balance sheets that have been presented to them, because they want another independent audit. *Let me go have somebody else come and see how much money is coming into the coffers of the Corporation.* And why is that being done? Because the Corporation earns money. And the Corporation earns money, and the Corporation uses money, and the Corporation balances its books, which is a lot more than can be said for the Government.

So the Government might be looking for a way to sort of help to balance its books, and perhaps could use the Corporation as an example of good governance, good management, and good fiscal prudence, because they manage very well. And at the end of a financial year, the services are there. The revenue is there. And they do not go into debt.

Is it accidental that this takeover comes after the Corporation has spent significant capital in developing the waterfront? Or was it just timely, to say, *Let us wait until we have made it all beautified. Let us wait.* That parking lot is a parking lot, but that parking lot cost money. The parking lot cost money for it to reach the stage where it is.

[Inaudible interjections and laughter]

Mrs. Patricia J. Gordon-Pamplin: And, you know, I can understand Members laughing, because when you do not have a basic understanding of fiscal principles, I can understand it. I do not fault them for that. Some of us see the picture a little bit quicker than others. Some of us have slightly better mental agility than others. So I do not fault them for their limitations.

I will say, Mr. Speaker, that when the money is expended out of the Corporation budget and the budget it put, the money is expended, the city is beautified, and taxes are raised to balance it . . . what is wrong with that?

Now, the Government took great pains in creating an Economic Empowerment Zone. And the premise of that economic empowerment was not just the ability for business owners to have opportunities when perhaps historically they may not have had. One would have thought that part of empowerment is being done in the true sense of the word, that empowerment would dictate that they would have a say in how the taxes that they have to pay are going to be expended, that they would have a say on what the policies and programmes of the Corporation would be.

But under this Bill, the very people that the Government indicated that they wanted to enfranchise, they have disenfranchised even by taking away their vote, because the majority of them would not be on an electoral register in the city of Hamilton. So they will not be able to vote.

Is that right?

Well, the Honourable Member indicates that he did not vote. Maybe he missed the day; I do not know.

An Hon. Member: They would not let me vote.

Mrs. Patricia J. Gordon-Pamplin: They would not let him.

An Hon. Member: They disenfranchised me.

Mrs. Patricia J. Gordon-Pamplin: Well, you know, the whole purpose of reform is to ensure that things that are not right, that ought to be, are put right.

An Hon. Member: That is what we are doing.

Mrs. Patricia J. Gordon-Pamplin: So one of the things that we could see, in terms of the actual right to vote . . . absolutely, do not have any problem. You get no argument with me.

But, as I said, you cannot create equity by introducing a new set of privilege, as it were. And WEDCO is coming out of this in a position of privilege that is not being afforded to the Corporations, either of Hamilton or St. George's.

The Government knows full well that the viability of both Corporations of Hamilton and St. George's is predicated upon and dependent in great measure upon the revenue that is generated at the ports. And the Government would put a chokehold on both Corporations—death by a thousand cuts—and feel no way about it!

The Premier asked a question in his presentation: *How is it that when one person's house is on fire, other people can say, 'We have a problem. Our house is on fire.' Or, when one individual is sick, how could certain people say, 'We are sick?'*

We can! Because when you are concerned about more than just yourself, when you extend your concern to everybody around you, it is very easy to say, *We are sick.* And when we have a community, when we have a Bill that would stand to strangle a particular entity, then *we* are sick! It is not just the Government, it is all of us. It is not just the Corporation, it is all of us. *We* are sick. And it is very easy for us to say that we are sick.

Now, I would certainly hope, but I have no doubt in believing, that every Member of Government, as we heard that they voted against the hoist [SOUNDS LIKE] to sort of say, *Let us rise and report progress,* to give everybody the opportunity.

Let me just back up a little bit.

We spent $800,000, I believe the Minister indicated, of which $650,000 has already been expended on a consultant's reports? And are you telling me that for $650,000, that report could not have been tabled along with the legislation? Notwithstanding that we have had less than a week to determine, we absolutely would have taken the time to read whatever the consultants were suggesting. And it could very well be that every argument, every point that may have been advanced by the consultants could be points with which we could agree. But we do not know! We do not know!

The Government indicated that the Honourable Member said it was in the Bill. I do not know. I do not know, because we have not seen it firsthand. It could be that those points out of the consultants' report, with which the Government agrees we might see in the Bill—but was there anything in the consultants' report which the Government did not find to be tenable at that point in time, and hence we do not see it in the Bill? Oh, we will not know.

But all I could say, Mr. Speaker, is if the Bill as is presented encompasses and embraces all of the consultants' recommendation, then I am saying, for a four- or five-page Bill, if this is all that the consultants have come up with—and the majority of the meat of it is within the first three pages—for $800,000, we need a refund! We need to go back and get some change because I refuse to believe that $800,000 could have said, *Let the Corporation franchise be open,* that the Corporation already said that that is what they were doing. That is number one.

[Inaudible interjection]

Mrs. Patricia J. Gordon-Pamplin: Per-word cost is prohibitive. We talk about extortionate? This is extortionate, if such be the case.

So, Mr. Speaker, I am tremendously concerned that Members of the . . . I understand Members of Cabinet. I understand Members of Cabinet. They are inextricably linked together, hip by jowl, tooth by jowl, whatever you want to call it. They are linked together. But the Backbench has a purpose. And the function of that Backbench is, hopefully, to hold their Executive to account. But when we hear that the Backbench are also willing to say, *Oh, yes! I am really quite happy to support this. This is right, and this is . . .* you know, the Minister introduced this.

Well, let me just go back to this because this just stuck in my craw so badly.

The Minister introduced this Bill by talking about what happened in 1790, and that in 1790 some property was purchased out of public funds, and it then became the property of the Corporation, in 1790—in 1790! Now, that was a long time ago. I do not know if you count up the math, Mr. Speaker, but that was a long time ago. And I can tell you that, subsequent to that . . . actually, if he wants to go back to 1790, why do not we just go back to the year dot, from the beginning of time when, by geographical accident, somebody ended up . . . not geographical, but by weather. By an accident of the weather, a ship happened to shipwreck on our shores.

Nobody owned anything because it was just here. The only possessions that existed belonged to the Quay Owls and the boars. That is it!

So let us not go back to 1790, if you want to advance an argument.

Let us look at how we have advanced over time. Because, you know, John F. Kennedy had a very good expression in which he said that those who cling onto yesterday fail to live today and are certain to miss the future. And this is what is happening. You cannot say that in 1790 this obtained. Yes, property was purchased, taken or whatever. And then it was auctioned. And that money became part and parcel of a consolidated fund of the day. And as time went on, yes, some of it was sold, and benefit was gained. Yes, it was. All of that happened.

But what can we do about that today, today?

Those people who have purchased property in the city of Hamilton and who have paid consistently and persistently the taxes that have been levied upon them in the city of Hamilton have helped to ensure that the docks have been what they are. And why is it so egregious for the Government to . . . the Government seems to have a problem understanding that a healthy balance sheet is a good thing! A healthy balance sheet is a very good thing. It is boring, I understand, to the Government. But it is a very good thing.

So when a Corporation, when a business entity has the ability to balance its books and to raise the revenue and make expenditure appropriately, there is nothing wrong with that, nothing wrong with that. And I have no doubt that the Government can almost save itself the money in conducting an additional audit because any auditor who is worth his salt will have his work stand up to any scrutiny that his work needs, just by virtue of being professional.

So, Mr. Speaker, within the municipality, I know that when the roads need to be paved, the roads are paved. I know that when the garbage needs to be collected, the garbage is collected. What was one of the other benefits? And I felt it personally as a young child being afraid of the dark. I could walk outside my house being as sassy as I wanted with my mum, knowing that I am going to run away until it became dark. But at least I had the street lights. At least I had the street lights.

Mr. Speaker, I live in Devonshire. I drive up through the golf course on a daily basis in order to go home. And I can tell you I have to drive through there because I could not dare walk because we have not had lights up on that stretch for three months. The lights have been out. Why? So we do not have the capacity, Island-wide, to be able to provide all of those services.

I am not suggesting that there is something deficient. I am just saying that it is something that has not been done. It is not about who is responsible in the city when the lights go out. The city calls BELCO, BELCO fixes it, and we have a street light. It is simple. It is simple. So why does not the Government have the same relationship?

[Inaudible interjections]

Mrs. Patricia J. Gordon-Pamplin: That can easily happen. Just little things that one might understand that in order to make the city flow.

Now, when we start talking about the levying of land tax, that the Corporation does not pay land tax on its properties, I just want to know, is that unique only to the Corporation properties? Or does any other Government entity pay land tax or corporation tax, and the Corporation does not? In which case, it is absolutely inequitable.

So we want to fix it. And if we are going to fix it, we make sure that the land tax that is necessary to be paid on the Cabinet building, on the House of Assembly, on the Government admin buildings, and everything else, that all of that is paid, so that all the money comes into the coffers. But does that happen? Probably not; because there has been some kind of dispensation such that certain entities will have to pay and certain do not. And that is the way it has been. And if that is not tenable, then let us fix that. Let us fix *that*!

But why are we taking a sledgehammer to crack a nut? Why are we suggesting, as the Minister initially said, and the Government initially said, that they are going to absorb the Corporation into the Government of Bermuda? Why should there be two tax structures? Why does a city need more? Why do they have to be special?

Well, yes, they have to be special because the rest of us, Mr. Speaker, have the benefit of electoral enfranchisement. We get to vote in national elections. So those of us who would live in the city will get to vote in national elections and city elections. But is it right for those people to exclude those businesses who pay a significant portion of the tax? The Government has got to tell me that that was a major consideration. They have got to tell me that.

I would suggest also, Mr. Speaker, that as a centre of commerce that if the Government finds that they will take over the city, I would imagine that their lawyers would have said something to them to the effect that, *You are going to be estopped from absorbing property that is the possession of somebody else into your coffers. So, therefore, you have got to figure out a different way to do it.* And the different way to do it is to say, *Let us tax them to death, not perhaps by direct taxes, but by reducing their revenues.* And by taxing them to death, ultimately they will die a natural.

Who suffers in the process? Mr. Speaker, I would tell you that I work—and I will declare an interest. I work for an international company. I do interact with international companies in the normal course of my being. And I can tell you that the trepidation with which lots of businesses are facing this motion is almost scary for me to look onto it. I know that with the efforts that we have put to ensure that Bermuda remains on the cutting edge of being an international business jurisdiction, we do not want to do something that is going to shoot us in the foot; i.e., to undermine the confidence that businesses have that they can rely on a viable commerce centre in which to ply their trade. Is it going to be here today? Is it not going to be here tomorrow? That has got to be a major consideration.

I am not going to speak to the issue that the Premier mentioned concerning whether the Minister's car was attacked because, if that happened, that is absolutely inexcusable. I did not see it, so I cannot speak to it firsthand. But I can say, if it happened, it is inexcusable. And it is that sort of rabid attitude that one can do without. But I can tell you that what impressed me more than anything—and there was a little bit of, I guess almost ridicule on the part of the Honourable Member Pettingill, who just took his seat, who basically said that he did not see any workers out there.

Well, I think had he stayed he may have, because there was an entourage of members from the BPSU who came. And the president of that association spoke. And what did he say? He said, *I am not*

here . . . my presence, our presence does not suggest support for the Government's position or support for the Corporation's position. Our presence here is simply because we do not have enough information on which to make an appropriate decision. And they were asking for information.

What he indicated, Mr. Speaker . . . How much time do I have?

The Speaker: Two minutes.

Mrs. Patricia J. Gordon-Pamplin: What he indicated, Mr. Speaker, was that they did not have the necessary information. What is wrong with getting them the paperwork? What is wrong with ensuring that they have, as representatives of workers within the Corporation, as well as members of the Corporation and taxpayers of the Corporation, what is wrong with ensuring that the consultancy process was expanded to the extent that the stakeholders had appropriate information to make an intelligent decision as to what the Government was trying to do, either by way of support . . . excuse me.

The Speaker: You are losing your voice.

Mrs. Patricia J. Gordon-Pamplin: Either by way of support or by way of negating what the Government was attempting to do.

Mr. Speaker, the Government's approach is inexcusable in this instance. We ask for them to pause because they have created an inequitable situation in their zealous attempt to rectify a wrong. They have created a new level of protectionism for West End Development Corporation that is not afforded the Corporation of Hamilton. It cannot be right. It is not right, and I certainly cannot support—I cannot support this Bill.

Thank you, Mr. Speaker.

The Speaker: Thank you, Ms. Gordon-Pamplin, the Honourable Member from Paget West.

Any further speakers?

I now recognise the Honourable Member, M. W. Furbert.

Mr. W. Furbert, from Hamilton West, has the floor.

Hon. Wayne L. Furbert: Thank you, Mr. Speaker.

First of all, let me declare my interest. I am a current, I guess, voter in this. How did I get it? I am a businessman.

[Inaudible interjection]

Hon. Wayne L. Furbert: Well, you declare your interest. I am declaring my interest, as a voter, current voter in the Corporation of Hamilton. And my family is also a voter as one of the owners in the city boundary.

But, Mr. Speaker, after listening to the United Bermuda Party, it reminds me why I left the Party. They are a party that will not change and will not reform.

Honourable Member, Grant Gibbons, you will have your turn to stand up in a few minutes to speak.

[Inaudible interjections]

Hon. Wayne L. Furbert: Mr. Speaker, for the Members to stand up in this Honourable House and tell the people of Bermuda, particularly the workers, that the trash will not be picked up in the city, that the roads will not be paved, I find unbelievable.

Mr. Speaker, I should remind this Honourable House, as a former member of the United Bermuda Party, it was us that reduced the trash collecting in this whole Island. It was the Progressive Labour Party that put on additional trash collectors. So they have had some experience in collecting trash. They understand how to collect more trash. But it was us that reduced the trash over that period of time.

[Inaudible interjections]

Hon. Wayne L. Furbert: So, Mr. Speaker, I cannot believe that anyone would tell workers that they are going to lose their job. Trash will not be collected. I am dumbfounded when I hear those arguments. I just find it unbelievable just to listen to such nonsense.

If that is the only argument that the United Bermuda Party has, let me put this to rest. If trash is not collected in the city and the roads are not paved by whoever takes over, I am not going to stand in caucus and let that happen. It is not on. So let us not bring that up again. Let us leave that. Just stop it. Stop the foolish talking.

The Honourable Member who just spoke, Pat Gordon-Pamplin, talked about Backbenches. They understand that we are in a Westminster system. The Government comes to caucus and brings their arguments to caucus and we debate it. And then we move forward with the Government. It has not changed over the 30 years I was in the United Bermuda Party. But I disagreed many times within that room. But when the majority supported an issue, it became valid.

It is nothing new. We do not live in a republic, where Democrats and . . . it does not happen. Okay? And they know how the system works. So let us not bring up all these dumb arguments. I am tired of us just . . . you know, I am just tired of nonsense.

[Inaudible interjection]

Hon. Wayne L. Furbert: The Honourable Member has the right to speak later.

But when they talk about change, Mr. Speaker, it is very uncomfortable. We know it. It is very uncomfortable. The Honourable Member says

any change, even a change for the better, is always accompanied by drawbacks and discomfort. But I have to ask myself the question. I left here at 12:30. And I have to ask myself the question, *Why are we still like this in 2010?* I heard the Premier say that. Why are we still like this in 2010?

I have no problem . . . Trust me, I am the same Wayne Furbert I was many years ago. I have not changed. I have not changed. But when I heard the crowd call the Minister an "idiot" . . . or individual, I should say. I should say I did not hear them all say he was an idiot. But when I heard the individual call the Minister an "idiot," I said, *Minister, move ahead. Move your car ahead. Just don't listen to the talk.* It is unbelievable.

An individual told me, *I am not coming to your café anymore. I am not coming to your café anymore!* Mr. Speaker, when I left the United Bermuda Party . . . there is an Honourable Member in this House that has not been in my café since that time, since I left the United Bermuda Party. That is fine. That is fine. One individual says, *No need to come to my house, Wayne. You know how I am voting.* I know how she votes. She would never look for my name on that ballot. She always looked for United Bermuda Party.

An Hon. Member: Yes. They are like that.

[Inaudible interjection]

Hon. Wayne L. Furbert: That is right. Yes, you have got a good point.

Why are we like this? I fought against that very hard in the United Bermuda Party. For 40 years I was battling back and forward trying to improve the relationship. And what I saw this afternoon was unacceptable. This is a group that used to praise me! Lifted me up, made me leader!

[Inaudible interjection and laughter]

Hon. Wayne L. Furbert: Mr. Speaker, it hurts to know that, out of all the years I fought hard to ensure things would be better that I am treated like that because I started to stand up for something different. That is what the Members should be really speaking to. Have we really changed?

An Hon. Member: They have.

Hon. Wayne L. Furbert: I know that some Honourable Members will not vote for me next time. But I can guarantee you, Mr. Speaker, I will be back in this House after next election. I do not care who the United Bermuda Party sends down to Hamilton West.

The Honourable Member, Grant Gibbons, you can come, too.

[Laughter]

Hon. Wayne L. Furbert: Have the Honourable Member Grant Gibbons come down to Hamilton West. I do not know if the Honourable Member Kim Swan comes down there. But whoever they send down, Mr. Speaker, the message we send loud and clear: This has never been about the United Bermuda Party in Hamilton West.

[Inaudible interjection and general uproar]

[Gavel]

Hon. Wayne L. Furbert: People love me in Hamilton Parrish for what I stand for. But I am tired—sick and tired—of how, because you make a change, people treat you different. I fought hard against that, Mr. Speaker, and I am going to fight hard against it again.

When they looked around and tried to find some black candidates, who came to the rescue? Wayne Furbert.

[Laughter]

Hon. Wayne L. Furbert: Well, what's it to you, Grant Gibbons?

[Laughter]

Hon. Wayne L. Furbert: Who was there, Mr. Speaker, to try and attract some of the black candidates in the United Bermuda Party? And they treat me like this!

Mr. Speaker, I know it is not over. I know it is not over. If they only understood what they are doing to this country; if they only knew. And I do not have one racist *[sic]* in my body. But the facts are the facts, and the truth is the truth.

Mr. Speaker, in 1897, a city was born. Thomas Dill [PHONETIC] raised the first question about having a city. And they tell me, Mr. Speaker, no Green Paper was discussed. They said when it was readily agreed by the Assembly it was pushed through. That was done by . . . no, in those days it was the Corporation, and the same person in the Assembly. It was not difficult.

Mr. Speaker, you know something? If I was on their campaign . . . and I have not . . . if they would honestly admit, I used to give them some good advice in that room. They know I gave them some good advice. And some of that advice that I see coming up right now, I would not have given them. But when Honourable Members and . . . I will say my good friend, the Leader Kim Swan . . . and I read in today's paper (I do not see any quotes here, but I am assuming). It says that will lead to Corporation job losses. Somebody knows that is not true.

An Hon. Member: No, we set him straight this afternoon in BIU.

Hon. Wayne L. Furbert: "Deterioration in street cleaning, garbage pickup and parks and building maintenance."

And then I read in an ad yesterday, it says . . . and I heard the Premier say about Bermuda Day will be cancelled and Harbour Nights and all Christmas activities, Queen's Birthday Parade, all parades that take place in the city, Culture Fest. I would advise them, *Do not write that!*, if I was in that room.

Pedestrianisation, city scavenger hunt. I would advise them . . . because it only makes the people say, *This does not make sense. It does not make sense!*

So the arguments were falling apart. The average Bermudian knows that this is not the truth. This is not the truth. They talk about 40 per cent of the wharfage being lost revenue. And then, hence, they will have to cut. But it does not mean that it will not be done. It does not mean, because I understand from the Bill, that the Ministers and the Government will sit down with the Corporations from now until next April and work out who is responsible for what. That is what I read in the Bill. That is what they said. *We will sit down and have a negotiation. We will talk. And we will decide who does the trash. We will decide who does the pavement. We will decide that.*

But it is going to get done. It is going to get done! And workers will not lose their job. That is what I understand.

And I cannot believe from every day, every day that good word of "takeover"—takeover!

[Inaudible interjection]

Hon. Wayne L. Furbert: Well, that is the point. That is the point I am getting at.

In today's paper . . . and I am surprised that even the *Royal Gazette* writes, "takeover lightly." Takeover lightly! Do you know what a "takeover" is? The Government is not taking over the Corporation. I told my friends . . . and they are my friends, the gentlemen who are sitting there, the councilmen and the Mayor. These are my constituents.

An Hon. Member: These are good people.

Hon. Wayne L. Furbert: Good people. I have some good friends on this side. They can still run for office. And I will tell you, I will vote for some of them. Sorry, I cannot, because I will not be in the city.

[Laughter]

[Inaudible interjection]

Hon. Wayne L. Furbert: Yes. Or I could live in my other apartments in the city.

An Hon. Member: There you go.

Hon. Wayne L. Furbert: But if I was, if I had the chance to, I think that that . . . let me tell you. That is probably one of the best teams we have ever had in the Corporation, one of the best teams I have seen for years. Best team. Trust me. I've told the Mayor, I said, *I am not trying to hide anything.* They have done a good job.

But change is sometimes painful. It is real painful. And let me say, this is not the first time that amendment has taken place to the Municipality Act. There have been 36 amendments, and not one time that I have seen anybody crying out loud. There have been 36, and most of them done by the United Bermuda Party. Since 1925 to 2007 amendments took place.

Let me say that my former Party made changes. And let me say that the Corporation was upset also then. And I read as follows, Mr. Speaker, if you will give me the pleasure.

The Speaker: How long is it?

Hon. Wayne L. Furbert: No, it is not long.

The Speaker: Go right ahead.

Hon. Wayne L. Furbert: It says, "A Town and Planning Act was put in place which removed the responsibility for the city development to be the Building Authority."

And Mr. Bamberg [PHONETIC], my former history teacher, writes, "The UBP dominated Assembly, detracted from the powers that successive Corporations had jealously guarded, and were bitterly attacked by Mayor Cooper."

This is not the first time. And the Premier spoke earlier on about the Ports Authority. As a matter of fact, Mr. Gilbert Cooper, at the 60th Annual General Meeting of the Bermuda Chamber of Commerce, says, "I cannot be a party, as a Member of this House" (he was in the House then; he was on both sides) "to this Ports Authority legislation. It seems to me that if we are going to be dictated to by an appointed board rather than have a management of the waterfront by those elected by the freeholders, the situation is going to be very difficult indeed. I feel that Hamilton is the front door of Bermuda. The tendency by members of the legislature to decry the city, even to the extent of suggesting the central Government run it—this would be a very retrograde step."

And this is when the United Bermuda Party was in power.

[Inaudible interjection]

Hon. Wayne L. Furbert: Warren Eve [PHONETIC], in 1967, said, "The most serious setback has been a decision of the Honourable House to ask the Governor to prepare legislation placing control of the docks under the Marine Board. I'm the first to admit that we have not been as progressive and efficient as we should have been. And we deserve a shake-up. But I fear that the remedy may be far more serious than the disease."

This is the United Bermuda Party. This is not the first time people have made changes. Why be so shocked? Why be so shocked? And opening up the franchise . . . Well, Mayor E. Graham Gibbons, in 1974, after winning the election (and Honourable Member, I am sure, knows who that is) concluded his speech by saying, "The 1973 proposal to extend the franchise was received favourably by the Committee of the United Bermuda Party Government appointed to consider the inclusion of all persons liable by its own assessment for the rates." That is, paying taxes.

It came to the Honourable House, and they debated it over and over again. And both sides were up in arms and going against this. Walter Robinson, MP, Opposition Leader, claimed that it took more account . . . listen to this, Mr. Speaker.

[Inaudible interjections and general uproar]

[Gavel]

Hon. Wayne L. Furbert: No, I think the Honourable Member was right. He was trying to . . . and it goes to the argument as far as why. He said . . . Long? This is 1974!

An Hon. Member: He was ahead of his time.

Hon. Wayne L. Furbert: My point is, why did the United Bermuda Party make the change? Because Walter Robinson, MP, said leaders claimed that it took no account of the ordinary people living within the city.

An Hon. Member: There you go! There you go!

Hon. Wayne L. Furbert: This is 1974. The United Bermuda Party Government—my former Government—had the opportunity to make changes . . . had the opportunity! But why? The question is, Why did they not make the changes?

I am hoping that some Member, who now sits on our side, will come back and tell me. Well, why did we not make the change? I can probably make that suggestion. Maybe because in 1973 there were people in the city and also in this Honourable House . . . there was a conflict of interest. This was a conflict. There was too much intermingling with too much association going on. So change is very hard to come about when there is so much connection within the group.

And so they came back and said, *Okay. We are opening up. But the only people that can vote are the husband and the wife.*

An Hon. Member: Whoa!

Another Hon. Member: How about the six children?

Hon. Wayne L. Furbert: No, no. Children cannot vote.

So the United Bermuda Party had the opportunity at that time to make a change. And they are talking about, it is a rushed job. Well, how much rush do you want to be?

An Hon. Member: Eighty-seven years is slow.

Hon. Wayne L. Furbert: How long? How long? How long, Mr. Speaker, do you want to make the change?

And the Government, the Progressive Labour Party Government, which I was not part of at the time in 2008, in the Throne Speech, mentioned it. I do not remember. I do not remember. I could be corrected. But the Opposition even asked the question during the debate. Well, what is your . . . they could have debated it. They could have moved some motions. They could have asked questions for over two years. Well, you ask the question . . . the Honourable Member said he asked the question—but only here recently.

An Hon. Member: Yes, and I still haven't got the answers.

Hon. Wayne L. Furbert: Well, I am asking the question now. He has the right to speak. But why did it take us so long, Honourable Member, Grant Gibbons—over 30 years—to make some reform?

[Inaudible interjections]

An Hon. Member: That is too hard.

Another Hon. Member: He looks like a deer in lights.

[Laughter]

Hon. Wayne L. Furbert: Why does it take so long?

So they tell me (I could be wrong; I was shocked to hear this) . . . but an individual that moves to Bermuda and is here for three years and stays in the city can vote. Is that correct?

[Inaudible interjections]

Hon. Wayne L. Furbert: Something has to be wrong in that situation. And that was going on for a very long time.

Mr. Speaker, when I first heard that the Governor was going to be taking over (that is what I heard from the Corporate, from all the ads), I was very much concerned. *Take over.* The assets of the Corporation are currently, and will always remain, in the Corporation. And the Honourable Member, who is an accountant like me, says that the books were balanced every year. Well, you are absolutely right. But the revenue of the Corporation has never been matched with the expenses.

An Hon. Member: No, no.

Hon. Wayne L. Furbert: Now, why do I say that?

There are some expenses that occur because of the city. If you remember . . . well, you may not remember it; but those who want to look at the Act, it says that the Corporation is responsible for fire, security and traffic wardens. The reason why the fire service was removed, I understand, out of the Corporation into the central Government, is because it was too expensive.

An Hon. Member: They were not financing it well.

Another Hon. Member: And now we pay rent for the fire service.

Hon. Wayne L. Furbert: It was too expensive. And they tell me (last time I looked), the budget book tells me that the fire service is $16 million a year. That is what it costs to pay for a fire service to keep this country going, $16 million.

I would have thought that a lot of services and equipment has been added because there are larger buildings in the city. I probably could put out a fire in my house by a little water, you know, *psssss.*

And they cannot tell me that additional expenses have not occurred because of the city. So do not tell me I am collecting revenue, but I am not matching my revenue with my expenses, because if they were responsible for paying out expenses for a fire service for the betterment of this community, I want a say, Mr. Speaker . . . I am not, you know, I do not do the budget for that Corporation. But I would have thought it would have been millions of dollars, and not 2, not 3, not 4, not 5, not 6. It wipes out the whole amount that they say they have.

An Hon. Member: That's right. *And* we pay rent.

Hon. Wayne L. Furbert: So, tell the truth to the Bermuda people. All they want to do is hear the truth. But when we come here with innuendoes and misinformation and all this nonsense . . . I am getting too old for all this nonsense. I really am.

So we have to understand. And we know that the . . . and someone said to me, I said, *Okay, the traffic wardens are paid for mostly by the Government. It is about a half-a-million dollars, I think, more.* But they said the Government collects fines. True! The purpose, though, is to make sure that people are not disobeying the law. It is not the purpose to collect fines. That is the purpose of putting the traffic wardens there.

So there are expenses. But we hope the people will obey the law. Hence, why we put a stronger discouragement of $75, so we do not have to more collect fines; hence, the expense is still incurred by the Government.

So do we understand that argument? But yet, I collect my . . . I paid $17.50, which is not, you know, for my . . . and I do not know how much the Corporation . . . they tell me they make a donation, contribution to the traffic warden. And then, on top of that, the customs collects the money for all the wharfage that is collected. So the expenses are not quite matching the revenue. Do you understand this? Okay. And it is just basic, simple information. Yes, principle.

[Inaudible interjections]

Hon. Wayne L. Furbert: Now, let us just try and put this in a ball. Let me try to make you understand this.

I know the Corporation, because of people who have been voting for a long time feel now that this right has been taken away, will be taken away from them. And someone said, *Taxation without representation*. I thought that the largest taxpayers in the Corporation were probably international business; I could be wrong. They are paying, I would say, a large amount of corporate tax around here.

And the question is whether they are . . . I do not remember them being represented on the Corporation. So that argument falls apart. And most of . . . do you follow me on that?

An Hon. Member: Yes, yes.

Hon. Wayne L. Furbert: I am going slow. If you feel . . . you might not know what is going on, say it to me and I will speak.

The point is that taxation without representation . . . I understand that. And I believe that during the time from now until April 2011, talking with the Government, you know, there are possibly some amendments. I do not know. There are some possible amendments. If they feel that they are not being represented, and I . . . you know, so I say. I am not going to say that it could happen. But there is a possibility. Make it very clear: I am not saying it could happen. But there are many boards around the world. And remember, I have been on a hospital board. We were all appointed, but we had what we called ex-officio members that came in, chief of staff and everybody else . . . possibility.

I do not know. I am not saying that it will be, Mr. Speaker. But it is a possibility that there could be

some ex-officio members from the Corporation that sit around a table, you know, they could talk to. I do not know. There is a possibility. So there is the possibility they might meet around the table.

All I am saying is let us not get out there and put this misinformation out in the public, because (I hate to say this) but you are turning off a certain sector of the community. And despite your 87 per cent disagreement, the question is, What did you ask them? Do you believe a takeover by the Government? I put my hand up. I probably would have said that myself.

Do you agree with improving the franchise within the community? The majority of the people probably, you know, would say yes.

So let us not get out there and give misdirection to the public. I think [what] we want to do is to make things better. What I have shown here, Mr. Speaker, is that change has occurred already by a former Government. What I was trying to show is that the revenue and expenses do not match anyway, have never matched within the city. The central Government, which taxpayers in general . . . maybe we should all walk in there and have everybody vote for the Corporation. Maybe! Maybe during election time, everybody walks in—*Hey, tick, tick, tick, tick.* I would still vote for some of my honourable friends. I think they are doing a good job (if I had the opportunity).

So my point is this, that if we sit down as reasonable people who want to get reasonable things done, then I think that we can go a long way. But once my former colleagues stand up and just keep on uttering such nonsense, it does not help them. I told them it will change when I left. And if they think that this is changing them . . . if they *think* this is changing them, if they did not listen to me before, I am telling them right now to listen to me now. They are sending the wrong message.

[Inaudible interjection]

Hon. Wayne L. Furbert: I will take it. I know it is Obama calling me.

[Laughter]

Hon. Wayne L. Furbert: But, Mr. Speaker, how much time do I have left? Mr. Speaker, how much time do I have left?

The Speaker: One minute.

Hon. Wayne L. Furbert: One minute. Wow, that was short.

Well, Mr. Speaker, in closing, I will end on this quote. It says, "Action and reaction, ebb and flow, trial and error, change—this is the rhythm of living. Out of our over-confidence, fear; and out of our fear, clear vision, fresh hope. And out of hope, progress."

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Furbert, the Honourable Member from Hamilton West.

Are there any further speakers?

I am going to take the Honourable Member, Dr. Gibbons, from Paget East.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Speaker.

Mr. Speaker, like a lot of things, that the Honourable Member who just took his seat is confused. I think he has misunderstood or has not listened to what the United Bermuda Party was trying to say, particularly in terms of my honourable colleague, Mr. Kim Swan, and my honourable colleague, Pat Gordon-Pamplin.

The United Bermuda Party is not opposed to a reform or broadening of the franchise. That has never been said on this side of the House; and, in fact, we certainly welcome it. I think that is very clear. And I will talk a little bit more about this a little later on.

It is the process of how this has been gone about, and the Honourable Member who just took his seat, I think gave a clue to this, if we could just sit down like reasonable people.

The issue of . . . I was not quite sure where he was going with respect to the fire department. I think he was trying to sort of say that the Corporation is not paying for the fire department anymore. And, you know, I think everybody understands that, who has followed the history on that issue. The fire department is no longer a fire department just for the city of Hamilton, which it really was going back many years. It is a fire department which is now a national fire service. So it made sense over time that the responsibility would be shifted to some degree, or indeed to a great extent, from the Corporation of Hamilton, and indeed the Corporation of St. George's, to the National Government.

But I would like to go back to a number of points that the Honourable Member who introduced the Bill made in his statement a couple of days ago, because I think this, to some degree, gets to the core or the heart of what some of our concerns are with this particular piece of legislation.

He said in his statement that the "modernisation" (his word) "that result is desperately required, and if there is truth to the desire of some to work with the Government, this Bill provides a useful starting point for a round of meaningful discussion, free from the glare of media spotlight and unaided by full-page ads."

[Hon. Wayne N. M. Perinchief, Acting Speaker, in the Chair]

Dr. the Hon. E. Grant Gibbons: Now, I think, Mr. Acting Speaker, that that really addresses a lot of the concern that we have on this side of the House, because if that round of meaningful discussion had happened some three years ago when the Corporation of Hamilton and St. George's first put forward their suggestions—and they were quite comprehensive suggestions—in order to reform and improve the governance, broaden the franchise, and indeed increase the efficiency of the Corporation, if, as my honourable colleague, Mr. Wayne Furbert said, if people had sat down in a reasonable way, I do not think we would be here with the same kind of issues that we are looking at right now.

And indeed, what is so interesting about it is the Honourable Premier, who spoke about this issue—and he was talking about authority (and he always gets onto the subject of authority) [said], this issue drives us to the core of our existence. So why, if this issue is so important and drives to the core of our existence, has the country and the House here only been given seven days to discuss it?

Surely, the big conversation should be broader than simply what the Government wants to talk about. Surely, this issue of the importance of municipal government, how you are going to approach this franchise, what other changes you are interested in doing, surely that deserves more of a conversation than one week. And I think that is the issue of why we feel this is so destructive on this side.

I think it is interesting, because the Honourable Member quoted someone that he had spoken with in South Africa. And he said . . . apparently the South African had said to him, *There is such a sharp divide between us in South Africa that we had to sit down one on one at the negotiating table and reach compromise.* Exactly our point on this side, Mr. Acting Speaker.

[Inaudible interjections and general uproar]

Dr. the Hon. E. Grant Gibbons: Three years ago—three years ago—three years ago, there was plenty of room for the Government to sit down with the Corporation to say, *Look. We received your comprehensive recommendations on reform of the Municipalities Act. Let us sit down, work it out one on one, two on two, or whatever is required to see if we can find a way forward, a win–win way forward,* the compromise that this South African was saying.

My honourable colleague, or former colleague, Mr. Wayne Furbert, was saying, *Why can we not sit down like reasonable people?* The Honourable Member is interjecting, "But it would be pointless." But I think that is the whole issue here, Mr. Acting Speaker. If they assume from the beginning that it would be pointless, what hope do we have in this House or in this country to be able to move forward?

Now, I understand. I understand—

[Inaudible interjections]

Dr. the Hon. E. Grant Gibbons: The Honourable Member interjects, "There were consultants going, and they would not talk to them."

I think they were quite prepared to talk to them.

[Inaudible interjection]

Dr. the Hon. E. Grant Gibbons: But you see, the Honourable Member is protesting. But clearly, the Honourable Member only sees it from his particular side. There was no effort here, really, to sit down and sort of work this out.

And that is what my honourable colleague, Mr. Kim Swan, was saying earlier. Rather than having this Bill—which is simply bulldozing these changes through—be, as the Honourable Member, Mr. Zane De Silva said, a useful starting point, why did it not happen three years ago or two years ago? We on this side of the House are not opposed to reform, broadening the franchise. In fact, the Honourable Member Mr. Pettingill—and I have to say that, once I got past the self-righteousness, I said, *Maybe he is making some good points here,* because I do not think he had it right. He said much of the ire is an extension of the franchise.

That is a straw man. From our perspective, the ire is not about the extension of the franchise—far from it. We believe that the franchise should be extended. In fact, Mr. Acting Speaker, I have to say that if anybody who looks at any city around the world right now, any city around the world, with a couple of small exceptions, will see that businesses or those who rent properties as businesses do not get the right to vote. That is just the way it is. So I do not have a problem with that, personally.

But I do think that what the Honourable Member, Mr. Pettingill, had to say was part of this discussion. I think he made a very interesting suggestion, which is, How do you bring those who have actually worked in the city and those that have a real stake in the city, the businesses, back into the picture here? How do you do that? And I think certainly we on this side of the House would look very favourably at the proposal that he was trying to make here.

But in terms of broadening the franchise . . . absolutely, Mr. Acting Speaker. We on this side have no problem whatsoever about it. And I think that says it very clearly.

Now, I think the other issue, of course, is this issue of rushing it. Clearly, the whole community sees that there has not been significant or sufficient discussion about this. You just look at the interviews in the *Gazette.* There is a tremendous amount of confusion out there about what this legislation is trying to do. The Government is saying one thing; Corporation is

saying something else. And I would like to get to some of those issues in a minute here.

But I think the point here is, the Government is sort of treating this like a surgeon. Somebody has arthritis in their leg, and they are saying, *Fine. We will amputate that leg. And then later we can talk about, you know, what other options you might have had in terms of curing that arthritis.* It is putting the cart before the horse. You have the discussion first. You look at the options. You sit down (as that South African said) one on one and you try and find a reasonable compromise here.

I do not think the Government is unreasonable. I do not think the Corporation of Hamilton and St. George's unreasonable—although people are starting to act like they are being unreasonable. And I think that is probably the discussion which cuts to the core of what the Premier was talking about earlier on.

I would like to tackle, in a broader way, some of the points that to some degree have been touched on already. But I think they are important, Mr. Acting Speaker, and I think they, in some ways, illuminate some of the concerns that we have on this side of the House.

Let me start by going at this issue of wharfage, which has been a point of contention and which is clearly very much a part of the Bill.

The Honourable Member, Mr. Zane De Silva, when he made his statement said, "There is no rationale for any tax structure other than the national one, which reflects the elected Government's policy."

Now, I do not know where he came up with that. But if you look anywhere around the world, you will find out that there are many different structures of tax and fees that are charged, which are different from the national structure. That is true in the UK, with cities. It is true with provinces. It is true in the United States at a federal, state and municipal level. So I have no idea where he came up with that rationale that "there is no rationale for any structure other than the national one."

But I think he then went on to say, "This Bill will address the issue by ending the ability of the Corporation to levy those charges based solely on their ownership of the Island's ports." This is the issue of wharfage. And my honourable colleague, Pat Gordon-Pamplin, touched on it as well. Now, I would have understood it if the Government had said, *Look, you know, we do not think the Corporation should be charging a tax, a land tax, a corporation tax, because that was what happened down in St. George's.* In fact, it was the United Bermuda Party a number of years ago who said, *Look. There are certain residents down there that are getting double taxed, land tax by Government, land tax by the city. That needs to change.*

But interesting enough, Mr. De Silva, the Honourable Member, did not talk about the land tax. He went after wharfage. And it is hard to understand, why wharfage? Because "wharfage" is a term—and port dues. "Wharfage" is a term which is sort of interesting because it is a very fancy word. Basically, it means rent for the use of the dock. And my honourable colleague, Pat Gordon-Pamplin, gave a good example.

If Mr. De Silva, the Honourable Member, had a house, and the Government said, *Look. We are quite happy to have you rent that house to tenants, but you can't charge them a rent,* Mr. De Silva would say, *Well, hang on a second here. I have got to pay for the upkeep of that. I have put money into the capital assets of the dock, upgrading it on a regular basis. Why can't I charge a rent for that use?*

And that is precisely what the Government is doing here. They are taking away the ability of the Corporation to charge rent on the docks.

The odd thing is, Mr. Acting Speaker, they are saying that WEDCO can do exactly that which they are taking away from the Corporation of Hamilton. And I do not—

[Inaudible interjection]

Dr. the Hon. E. Grant Gibbons: The Honourable Member interjects, "WEDCO builds houses." Well, the Corporation does a lot of things. It provides services. It upgrades parks. It maintains the docks, where essentially all of this merchandise that we all consume on a regular basis comes in. There are lots of reasons why someone should be able to charge rent on something that they own and upkeep. So it does not make a lot of sense to me as to why they have gone after that particular issue.

Now, we also heard earlier from the Honourable Member saying that it increases the cost of everything and that it somehow adds to the cost of all the goods coming in here. That is true. But when you actually look at the increase in cost that the wharfage adds, and you if you take $7 million or $8 million a year, and you look at it in comparison to customs duty, which is some $230 million to 235 million a year, it is only 3 per cent of that.

And when you actually look at the cost of the goods coming in, which is probably three or four times that, what that wharfage actually is, Mr. Acting Speaker, is less than 1 per cent of the landed cost of those goods. It is a miniscule amount, actually, of the sales price of those goods. So that $7 million or 8 million actually, when you look at it, is simply a rounding error, in many respects.

Now, what I could not quite understand from the Bill (and this is an interesting issue), my understanding was—and it does not say this anywhere. My understanding was that perhaps it is Government's intention to continue to collect that wharfage. And I would like some clarification on that, because if that is the case, if Government intends to continue to collect that wharfage, then that issue of the cost disappearing is a non-starter.

It occurred to me, because of the mess that the Government's finances are in right now, the fact that they ran a deficit of some $41 million was, I think, two years and $67 million this last year, that they are desperately trying to get their hands on some additional revenue here. Now, maybe that is an assumption, [maybe] I am incorrect. But it is not clear. It is not clear, Mr. Acting Speaker, from the Bill itself.

It is clear that the Government needs money. But it is clear that, in order for the Corporation to be able to provide the kinds of services it provides, that it also needs to be able to have revenue to be able to do that.

Now, let me tackle the further issue, which I thought was a very interesting one here. This was the statement, but we did not hear anything from the Minister this morning, because he went on on Monday, when he read the statement, to say, "Insofar as is required to maintain functions and service levels, no prejudice will result from this change," talking about removing the wharfage from the Corporation. Now, the Minister did not say this, but does that mean that the Government will step in and provide the money, the wherewithal, to make up that $7 million or $8 million to the Corporation so it can continue to provide those services? Because that is the implication here. And then I wonder—and then I wonder—and then I wonder—

[Inaudible interjection]

Dr. the Hon. E. Grant Gibbons: The Honourable Member interjects, "How does St. George's function?" I will get to that in a second.

Then I wonder, where is the Government going to find an additional $7 million to $8 million a year when it is already hard-pressed to even pay money into the sinking fund, let alone fund a programme at Victor Scott School this summer for some of the children over there? They are making cuts all over the place. Where are they going to find that $7 million or $8 million? I think, Mr. Acting Speaker, that is a very fair question.

Hon. Elvin G. James: Point of order, point of order, Mr. Speaker.

The Acting Speaker: The Minister of Education.

POINT OF ORDER
[Misleading]

Hon. Elvin G. James: Yes.

The Honourable Member is definitely misleading the House. And this is not the first time that this has been cleared up in here. So I think his statement is being a little bit mischievous.

We have cleared this up several times that we did not cut a programme. This programme never did exist. In fact, there was no summer programme. It was a camp. So please, stop being mischievous, please.

The Acting Speaker: Thank you very much, Minister.

You can carry on.

Dr. the Hon. E. Grant Gibbons: Yes.

I think I said, "could not find the money to pay for it." And if they could not find the money to pay for that, then why are they going to be able to find $6 million or $7 million?

Now, one of the things that a number of Members have touched on, and I think this is a very valid issue. If you take out the wharfage, which I understand actually is not 40 per cent, but is closer to 32 per cent of the Corporation's revenues—if you take out a third of the Corporation's revenues, how are they going to be able to make that up?

Now, they are not going to be able to make that up unless the Government concurs with that because the Corporation requires Government's approval through ordinance in this House to be able to raise or change revenue, at least as I understand it.

Now, even my honourable colleague, Mr. Wayne Furbert, will understand that if his business, overnight, loses a third of its revenue, he is going to have to cut some of the services he provides. Now, the obvious place for that, since essentially salaries, wages and benefits are some 50 per cent of the Corporation's expenditure, it is going to have to come out of that. The first place one would normally look would be to reduce overtime. And we all know, for example, that a lot of the BIU workers, particularly those on the garbage trucks who are working on an overtime basis all the time are going to have . . . the Corporation is going to have a serious issue in terms of paying that overtime.

It just stands to reason. If the Honourable Minister of Finance was suddenly told that her revenue was going to be cut by a third, there would be serious issues in terms of jobs one way or another. Now, I have not heard the Government say they are going to make up that $7 million or $8 million. We simply have not heard it. So, you know, I think—

Dr. the Hon. Ewart Frederick Brown: If it can be managed, we can manage it.

Dr. the Hon. E. Grant Gibbons: "If it can be managed, we can manage it."

Dr. the Hon. Ewart Frederick Brown: Yes.

Dr. the Hon. E. Grant Gibbons: Well, you know, this again, the Honourable Premier says, "if it can be managed" . . . that does not sound like a guarantee to me.

Dr. the Hon. Ewart Frederick Brown: It is being managed now.

Dr. the Hon. E. Grant Gibbons: But why, again, Mr. Acting Speaker . . . again, it is the rush here. Why was not that issue discussed with the Corporation of Hamilton? Why did not the Government say, *Look*—

An Hon. Member: They did not want to talk.

Dr. the Hon. E. Grant Gibbons: They did not want to talk?

That is not what they are saying. And that cuts to the issue of this complete lack of ability to be able to speak. And I think that is obviously a dangerous issue here.

So, you know, I guess it reminds me of that old phrase (Is the Government going to step in and make up that $7million or $8 million?). It is that old phrase about, *I am from the Government, and I am here to help,* you know? or, *The check is in the mail.* Come on. This is the kind of stuff that should have been sorted out ahead of time, not here in this effort to—

Dr. the Hon. Ewart Frederick Brown: Point of information. Point of information.

Dr. the Hon. E. Grant Gibbons: No, I do not—

Dr. the Hon. Ewart Frederick Brown: Okay, point of order, then.

The Acting Speaker: I will take the point of order from the Premier.

POINT OF ORDER
[Misleading]

Dr. the Hon. Ewart Frederick Brown: Mr. Acting Speaker, the Honourable Member is misleading the House.

For the record, this Government, through its consultants, reached out to the Corporation of Hamilton on more than one occasion, in fact, numerous occasions. And in each instance, they refused to cooperate. They refused to provide information. The consultants came back to us and said, *Closed door. They are not speaking to us.*

So the Government did make an effort. And I think the public deserves a right to know, deserves to know that we did make an effort to talk. We are a democratic and reasonable Government.

The Acting Speaker: Thank you, Mr. Premier.

Carry on.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Acting Speaker.

I appreciate the Honourable Member's interjection. I mean, clearly that is the perception of Government. We have heard that all day, all week. We are hearing something else from the Corporation of Hamilton. So, you know . . . who knows why it has gotten to this point? But, anyway . . .

There is another piece in here which I think is also in some respects strange and bizarre. And again, it probably speaks to this total lack of trust between the Corporation and the Government as well. And that is this provision for an independent audit of the Corporation's books.

Now, my understanding is, the Corporation paid about $100,000 the last year or so, $180,000, $200,000 two years ago because they had a very complete forensic audit done of all the Corporation's books. Now, that was done by a top-flight auditing firm. It was KPMG. In fact, the Corporation changed auditors because I think they had PriceWaterhouse Coopers, if I remember from what was published in the *Gazette*. It was originally PWC, and then they changed to the KPMG, which is good, good practice.

And I guess the question I have is, you know, why is the Government unprepared to take KPMG's audited financial statements? Why are they going to the effort of having the Corporation pay for yet another audit, which will probably be even more expensive because it is in midyear? Why do not they simply wait until December 31st, which is the end of the year, and get those audited statements? They have the working papers, if they want to, from KPMG or whoever the Corporation is using now.

You know, it just does not make any sense. I think, again, it just speaks to this extraordinary, extraordinary distrust. Would KPMG make up numbers? Would they falsify? I don't think so, Mr. Acting Speaker. It just seems sort of odd in a way that we are going through this exercise, which is yet a further waste of money, but probably is more emblematic of this huge lack of trust between the two Parties.

So I think, you know, those are some of the issues that I wanted to speak to. And I think there are a couple of other things that I will just touch on briefly. And it is this issue—actually the final issue I have, which again speaks to this issue of trust. It is the development of the waterfront. The Honourable Member earlier (and I cannot remember if it was the Honourable Premier or the Honourable Member, Mr. De Silva) both spoke to the waterfront being developed to the exclusion of the elected Government.

Mr. Acting Speaker, that just does not make any sense. I think the Corporation, obviously, has a stake in the development of the waterfront because they own the assets that are along there. But the Corporation can do nothing without the concurrence of the Government—past governments, this Government, future governments—because they simply cannot. They cannot move without planning approval,

without issues raised at the Queen's Bottom, all kinds of issues that speak to that.

So again, it is almost silly to say that developing the waterfront was going to be done to the exclusion of the elected Government. It does not make any sense. This is the kind of straw men that are constantly being thrown up to try and prove that somebody else is basically not cooperative. And I just . . . you know, it is so bizarre. I mean, it really is so bizarre.

[Inaudible interjection]

Dr. the Hon. E. Grant Gibbons: The Honourable Member says the public relations campaign was bizarre. I think when you back corporations, when you back somebody into a corner, for their very existence—

[Inaudible interjections]

Dr. the Hon. E. Grant Gibbons: But this is very interesting, Mr. Acting Speaker—

[Gavel]

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. acting Speaker.

I do not think anybody who said that you are going to abolish me and repeal the Municipalities Act is not backed into a corner. That says, *You are terminal, you are toast, you are gone!* Okay? That was what the Government said in 2008. So, can you expect there to be much trust after a statement like that?

The really interesting thing, though, is that the Government clearly has moved. I think the Honourable Premier, when he spoke about it earlier, was decrying the issue that, *Look. We have compromised to some degree, but we have not gotten very far.*

But again, it speaks to this issue because, surely if you are going to abolish or repeal—and now you are simply talking about financially emasculating them by taking away a third of their revenue . . . that is certainly movement. But why could there not have been discussion during that period, because clearly—

[Inaudible interjections]

An Hon. Member: We already did. They would not talk!

Dr. the Hon. E. Grant Gibbons: Here we go again.

It is the same, sad, old paradigm—*man, boy,* you know, *us, them,* all the rest of it. And I guess we are obviously not going to get very far in this because the heels are so dug in.

It is just a real shame that it has gotten to this point, because it is such a huge missed opportunity, a huge missed opportunity for cooperation, compromise and trying to set an example at the highest levels of leadership to work together to get something done.

And I will end on a final point, if I may, Mr. Acting Speaker. And that is, I also think it is unfortunate that the Honourable Member, Mr. De Silva, was hassled as he was trying to pull out of the parking lot.

[Inaudible interjections and general uproar]

Dr. the Hon. E. Grant Gibbons: All I will say is that I think we on this side are very sympathetic as well. We have all, in the course of our duty, had to do things which other people have disagreed with. I can speak personally. But I think if you were to go back—because I think the Honourable Member, Mr. Pettingill, has not been around long enough to understand it—but if you go back and you speak to people like Quinton Edness—

[Inaudible interjection]

Dr. the Hon. E. Grant Gibbons: No. Honestly, I do not think he was aware of it because he was not in Government at the time. But Quinton Edness, Jim Woolridge, certainly John Irving Pearman, were all in the course . . . I am sure the Honourable Member Mr. Richards' father, E. T. Richards, and many others, John Swan, have all been treated with a lack of respect and have been hassled, called names, and all the rest of it.

It is unfortunate, and I do not think we—

[Inaudible interjection]

Dr. the Hon. E. Grant Gibbons: The Honourable Member says he does not think so.

He should give Jim Woolridge a call and listen to that Honourable Member, or Quinton Edness, and listen to that Honourable Member. He will learn something. He has not been around that long, either.

I will simply say that we on this side do not think that is right. Those Honourable Members on that side do not think it is right. The BDA, the Honourable Members on there do not think it is right. So at least we are agreed on one thing here, Mr. Acting Speaker.

Thank you.

The Acting Speaker: Thank you very much, Honourable Dr. Gibbons.

Would any other Member wish to speak to the Municipalities Reform Act 2010?

I recognise the Honourable Minister Michael Scott.

Carry on, Mr. Scott.

Hon. Michael J. Scott: Mr. Acting Speaker, I thank you.

Mr. Acting Speaker, clearly it is unfortunate, many of the developments that have happened during

the course of this campaign. And the Honourable Member, Dr. Gibbons, is quite right. But what he refers to is, in fact, a very ancient fight that has been going on in this country for too long. This is a debate in which I certainly am able, and Members of the Government are certainly able to make an easy and successful speech. It is a question of finding yourself on the right side of history.

And it is just not satisfactory to have the Honourable Member, Dr. Gibbons, or Ms. Gordon-Pamplin, or the Opposition Leader stand and make the case of the details of lack of consultation at this stage—this year—lack of consultation, the timing not being right, tax grabs and money grabs, adding to the litany of details of a case for and the brief that they clearly carry for the current incumbents, Mr. Gosling and the members of the Corporation who are sitting in this House today. Their brief is for *some people*. The brief of this Government is for historic inequities and setting these inequities right.

And for you to get up today in the House and make case about details is insulting. It is unconvincing. I am able to say with hand on heart that I am standing to speak on the right side of history here. And to hear this palaver going on from Honourable Members . . . I watched as the Honourable and Learned Member, Mr. Pettingill, spoke. He made a brilliant speech.

I want to hear from the lawyers, all lawyers in this Honourable House today. I do! This is an excellent, simple case to make. The legislation is reasonable, Mr. Acting Speaker. The legislation is a reasonable—

[Inaudible interjections and laughter]

[Gavel]

Hon. Michael J. Scott: The legislation, in its intent, the legislation, in its objective, is reasonable.

The Acting Speaker: Carry on, Mr. Scott.

Hon. Michael J. Scott: Honourable Members, the current incumbents, Mr. Gosling, the Mayor of our city, the Mayor of St. George's, and your common councillors and your executive, you have been placed in a most unenviable position. You have unctioned unto yourselves this remarkable baggage of history. You have taken it on. You have taken it on, possibly without giving enough thought to what you were about.

This Municipalities Bill of 1922 was bound to be killed—bound. Fashioned in an era of inequity, a franchise that was completely crazy, a franchise that was inequitable, a setup of exemptions from taxes that made no sense; undemocratic, fashioned in patronage and in entitlement . . . this kind of legislation was bound to be reformed and repealed. But yet, the current incumbents, after years, from 1922 through to 2010, eyes closed, really—eyes closed—taking over this structure under this Municipalities Act, and thinking for a moment, for one moment that the presentation on behalf of the Opposition about the details of where we are today, when the Government of today, the PLP, finally stands up on a point of principle and says, *Enough.* And the Opposition says, *The timing is wrong and we are rushing,* when you have this structure of patronage and entitlement that has been going on for so long, disenfranchising people, nobody understanding, really, what is the accountability of this group?

So I can give very little credit to the current incumbents walking into this firestorm. What do you expect? A Government of the day begins to examine, at long last, just the broad issues of the franchise with which they (the current incumbents of leadership of the Corporation) cannot actually agree needs to be buried. And when a Government begins to examine these issues in the Municipalities Act and we move to consider just not a narrow consideration of the Municipalities Act, but all of its implications, one should not be surprised that we begin to examine the whole question of exemption from taxation that was granted in 1967.

And, Mr. Acting Speaker, you know, in 1922 when the fathers of the Corporation had inured unto themselves 145 acres of land in the country, with all of the property that it began to take unto itself, it bit off more than it could chew. The first thing that they could ask themselves, *Are we really going to be able to manage to pay the tax for all of these units in 145 acres?* So the men of the day, these bearded gentlemen, city fathers, passed the legislation to exempt themselves from tax—first wrong act! First wrong act! All right? That was the first wrong act.

And then, as history proceeds and progresses, and the city develops and grows, the burdens of responsibility, as was indicated by Mr. Furbert, the Honourable Member, for fire services . . . in '22 they were considering traffic control and moving it away from themselves. They have had a fantastic ride, able to levy taxes against all of their tenants and the owners of properties. Exemptions come along later in history from taxation for their properties. They move away the fire services.

And the importance of the security of the city . . . it was proper for them to have the fire services in their inception under their watch. They needed to protect the city from conflagration. But they shortly found that that, too, was a burden that they did not find that they could manage, and so they moved it off. Where? To the Government.

So a Government examining the franchise in 2010 would, with great ease, move to examine the ride implications of the entire Bill. And so we are not into a land grab or a tax grab. The taxes that we seek to obtain and extract from wharfage and land tax will be deployed for a broader set of the population. Do

not tell me that we are grabbing land and grabbing tax. Your time has come to an end. This model is very old. It is ancient. It does not work.

Any modern . . . that is why I want the lawyers to be in on this. I cannot understand how the Honourable and Learned Member, Mr. Barritt, can stand on his feet (when he does) and defend this. I expect to hear a speech from him similar to Mr. Pettingill's. But do not bore me with the details of process, today! Not after we have examined—at long last, on this day in July, at long last—a very old, unworkable, undemocratic form. The forms were wrong in the inception, and the incumbent leadership of the Corporations, St. George's and Hamilton, ought to have, with reasonableness, examined this early after their election.

What I have seen is an embarrassing rapid-response mission on the part of the current incumbents of the city of Hamilton, making the case for, *Oh, we have got it, and we are going to suddenly beautify the city and be more responsive.* But it just is not washing. Please understand that the current model is inequitable and wrong, and the policy that we have adopted is to address it, to remove it, to repeal it, and to place in place a replacement that will work. It will work.

I frankly believe that on going forward, we will have the ability to even innovate and improve the model. We will not be burdened or troubled by the lists of things that the Hamilton Corporation or the Corporation of St. George's, with all the wonderful things that they do. Frankly, the fact that the model in St. George's, with the historic town and all that happens there, must carry on. It is easy to carry on. It is easy to manifestly maintain and improve on. I have watched how we do make improvements to existing models since being in the Government.

So that is not an issue. It is a complete red herring. And for the Opposition to stand over there sheepishly all afternoon (I have watched you), particularly as we heard about the disgraceful behaviour of our citizens, my fellow citizens, getting themselves up to the very nth degree of whipped-up emotions displayed on the grounds of the House today and behaving towards an elected Minister of this country and his family in the way that they do . . . it was not a good look.

You actually over-reached. You have been over-reaching all week and all month. And the Opposition has hardened against you. Move on. We must move on. This is a simple debate about a simple, reasonable response by this Government to reform the Municipalities Act with reasonable provision. And the Opposition today carries the brief of men who are wanting to preserve their narrow position. I understand that. But it is a very, very shaky wicket on which to be batting. It is a very narrow one. It is not convincing, either. But the time has come, and it is past.

And so we have to be able to say that we stand on the right side of history today, as we continue to roll this debate through to a conclusion, as we do the right thing.

I do not want to rehearse a response to all of the things that I have heard from the Opposition. I will take my cue by just remembering some of the very fine words I heard from those who spoke sensibly and convincingly, the Honourable and Learned Member, Mr. Pettingill, and Honourable Member, Mr. Wayne Furbert, all fine points that I know the public have begun to listen to.

The Opposition Member, the Honourable and Learned Member, Mr. Barritt, feels that he did not have enough information given to him. This is not a case about having anything other than understanding what are the options that were put in place legislatively. I had information passed on to me. I went through the process of having to understand the objective and to get where I have got. And Mr. Barritt really is not in any different position from myself, notwithstanding I am in the Cabinet. But the only information that I have received, that you need to receive, Mr. Barritt, the Honourable and Learned Member, are the options available, whether wharfage should be left with the Corporation, whether wharfage should be with the Government. Whether the franchise . . . obviously, that is not even an argument for people. The franchise must be made more democratic.

Taxation on land tax . . . should that also be tax that inures to the Consolidated Fund or not? And after you have those issues represented in this very straightforward provision of the amendments to the Municipalities, I think you put yourself in a position to judge where the weaknesses or strength of the amendments lie.

It is not right to be able to make comparisons between the West End Development Corporation or the BLDC's ability to attract wharfage fees, and the Corporation. This is a question of scalability. This city has 145 acres of property over which it has been presiding for these many years. It is about scalability. That small Heritage Wharf compared to the considerable scale of the 145 acres and/or the wharfage we have here in this city, is no comparison. The level of integrity that comes to this city, these 145 acres, by people who operate in the city and people who travel from all quarters of Bermuda to the city to patronise our stores, is completely . . . there is no comparison between the two.

This is why the form was in its inception. It worked, of course. It worked in 1922. I commend the fact that the city fathers of 1922 built a city. But to have these exemptions carry on into the 21st century, a modern Bermuda, and to have Members opposite stand and seek to justify it, to proselytise a case that this is still rational and reasonable, is just pure folly—pure folly.

There can be no comparison between a Heritage Wharf and the vast entity of the city of Hamilton. It is too big for them to be able to stand up and justify

for continued exemptions from land tax. It just is too big. Any reasonable, modern government looking at it or comparing the West End Development Corporation or the BLDC in the town of St. Georges . . . no, I beg your pardon, because the BLDC does not cover that. But looking at the West End Development Corporation and its land wharfage mass and this city, the case cannot be made. The comparisons do not persuade me. I feel that I am a fairly reasonable fellow. And the case just was not made by the Honourable Member, Ms. Gordon-Pamplin.

But this is how your slips are showing, that you are making the brief and you hold the brief—

The Acting Speaker: Rhetorically speaking, now

Hon. Michael J. Scott: Yes, we are rhetorically speaking. Yes, indeed, Mr. Acting Speaker—that you hold the brief for the current incumbents of the Corporation of Hamilton, who feel that they are losing control of this entity, which has a long history.

But the time has come. The time has come for us to reform. The time has come, and I expect that no Member can convincingly stand up on the side opposite and make the case that this matter can be delayed any further.

The Acting Speaker: Thank you very much, Minister Scott.

Does any other Member wish to speak to the Municipalities Reform Act 2010?

I recognise the Honourable Mr. T. Richards.

Mr. Everard T. (Bob) Richards: Thank you very much, Mr. Acting Speaker.

I just have a few words. Let me start off on a positive note, that I agree with at least something the speaker who just took his seat said. And that which I agree to is that this really, in essence, is a very simple matter. Yes, I agree with that. And the way I see it, the issues are basically just two, or two sets of issues. There is a set of issues that have to do with the franchise and all that is contained therein. And then there is another set of issues having to do with the money. Two sets of issues. And, quite frankly, I do not see that they are connected at all. But let us go there. All right? Let me deal with the issue of the franchise.

I do not think anyone can argue that the current franchise of the Corporation of Hamilton is totally antediluvian. I mean, it is obvious. It is totally antiquated, out of date. And everything that you said, Minister Scott, is correct about that, and all the other Ministers. It just is true.

It is unfortunate that it has taken so long for that to change, but here we are. However, I think the proposals in the Bill before us could use some improvement because the fact of the matter is that Hamilton, I think like many cities, not all, but perhaps even more so with Hamilton . . . Hamilton is not primarily a residential city. Hamilton is primarily a business centre. It is full during the periods from, say, 7:30 to 6:00, and it is empty after that, with the exception of bars and places like that.

Certainly, late at night, the city is very empty indeed. The people who actually live within the confines of the city of Hamilton are small compared to the number of people that use it during the day. And they use it in ways where they are employed there, they do business there, and then you have sort of landowners, people who own office buildings and rent them out, et cetera. There is all manner of business, including the business of Government that takes place in Hamilton.

Now, all of these people should have some sort of say in how the city is run. And the Bill that we have before us does not really take that into account. And I am hoping (because I have not seen the details, and we are not here to talk details at this juncture) the Honourable Member, Mr. Pettingill . . . and he alluded to the fact that he had some amendments which would address that issue. I am looking forward to seeing what his amendments are, because I do believe that this is an area that we can improve, the franchise portion of this Bill.

You know, none of my colleagues . . . my colleagues have been hammered today for supporting something that they have not supported. You know, none of my colleagues have supported this franchise, not one of them. Everyone who got up in here said, you know, *We do not support this old-fashioned franchise*, every last man-Jack has said that. But every time one of the people from the Government gets up, they hammer us for supporting this franchise. We do not support it! I mean, can I be more obvious than that?

An Hon. Member: You are not supporting the Bill.

Mr. Everard T. (Bob) Richards: No, we do not . . . we support the reform of this franchise. But there are things wrong with this Bill. Okay?

So, you know, you cannot force us to swallow the whole thing, right? That is just not the way life works, and that is not the way legislation works, either.

[Inaudible interjection]

Mr. Everard T. (Bob) Richards: Well, we can choose to try to amend it and perhaps persuade you to change your mind, at least somewhat, somewhat. Right?

[Inaudible interjections and laughter]

Mr. Everard T. (Bob) Richards: Nobody on this side . . . But we are getting hammered for supporting this old-fashioned franchise, and we are not doing it. I

mean, I think I have been known as a blunt person. I am being blunt here, that that is the way we feel.

So the franchise set of issues . . . there really is not a big argument there about the set of issues that are involved in the franchise. The only issue that comes out of the issue of the franchise is that we think that there are many stakeholders in Bermuda, not just residents of Hamilton. And those stakeholders should have a say. So there could be a formula, a democratic formula that could be worked out where those stakeholders can have some skin in the game. I think that would be fair, because Hamilton is not a residential city in the main. And, more importantly, Hamilton is the nerve centre of the entire Bermuda economy. So it is a very, very important place. It is a special place. And we need to have it in such a way where everybody who is involved and has a stake in its future is involved in some sort of democratic formula to be involved with the Corporation.

So that is my point in that.

The Honourable Member (who I think just spoke) said that the current model is undemocratic and unworkable. Well, I agree with the first part. It is not democratic. But, strangely enough, it does work. In a practical, day-to-day sense, in spite of its antiquated way of choosing people on the council, the Mayor, and all that sort of stuff, on a day-to-day business basis, the Corporation of Hamilton works.

Now, they have had a couple of hiccups a little while ago with some members and disputes and all that sort of stuff. I guess that happens anywhere there are human beings. But in the main, the Corporation of Hamilton has been a workable thing. They have managed their business well. They have improved and kept the city in very good condition. And they have done so without incurring debt. So, you know, I have to give them kudos on that. Matter of fact, you know, I will not miss this opportunity to say the Government could learn a lot from the way the Corporation of Hamilton runs the city.

Now, the Honourable Premier, Dr. Brown in his presentation, talked about that it is a question of authority. Well, unfortunately, with that particular gentleman, everything seems to be about authority. It is all about who is in charge, with him. Right? And that is quite unfortunate. I would prefer to think that this is not just about who is in charge, but who is responsible. Because responsibility is a much, much more relevant thing to all of us than who is in charge. Who is responsible? That is an issue and a question that really needs to be answered. And I am going to get to that in a minute.

But originally, I said there were two sets of issues. There is a franchise issue, and then there is the money. Let us look at the money, because, Mr. Acting Speaker, the money part of this Bill is not in any logical way connected with the franchise issue. No, we could be sitting here today with a Bill to reform the Corporations of Hamilton and St. George's and the way the leaders of those Corporations are elected. And that Bill could have in place a formula, a new formula, to democratise the process and would not necessarily have anything at all to do with port fees, wharfage, taxes, or any of those things—have nothing to do with that. There is no logical connection between reform of the franchise and the money. The money is a totally separate agenda.

And the problem has arisen, I believe, with the money, as very often is the case. The problem has arisen with the money because the ability of the Corporation to use assets that it has to provide revenue has been curtailed in a major way.

And let me say, Mr. Acting Speaker, that the Honourable Member, Mr. De Silva, went back to 1790, and how a parcel of land was transferred over to what is now Hamilton. What he did not say was, *What did that land look like in 1790?*

An Hon. Member: It does not matter.

Mr. Everard T. (Bob) Richards: Oh, yes, it does. It does matter. It does matter. It does matter.

Were there any docks there along Front Street in 1790? In 1890? In 1920? No! There were not. There were none. The point is that over those years, the Corporation of Hamilton used its money to develop the docks in Hamilton. Right? So it is not just the land of the docks, it is the money that was spent to develop the docks.

[Inaudible interjections and general uproar]

Mr. Everard T. (Bob) Richards: And those are the assets of the Corporation. Those docks over there were developed by the Corporation over the years. Right? I have seen pictures of—

An Hon. Member: I believe given approval by the Government today.

Mr. Everard T. (Bob) Richards: Oh, they are given approval. But the Government did not pay for it. Right?

The Government did not pay for it. That is the point.

So the assets that we are talking about and the revenue from those assets are legitimately the Corporation's assets because they built them. They built them.

Mr. Acting Speaker, I think you are old enough to remember those docks.

The Acting Speaker: I am very young!

[Laughter]

Mr. Everard T. (Bob) Richards: Yes.

Those docks before there was containerisation, right? Remember when the old ships used to come in, and all the stuff used to come in these big nets and stuff?

The Acting Speaker: I do not remember that.

Mr. Everard T. (Bob) Richards: You do not remember that? Well, you are a lot younger than I thought. But I remember that. Right?

And then the whole world switched to containers. And there had to be a major building and renovation project on the docks of Hamilton to change those docks to accommodate container ships, because it was obvious that the world was going to change to container ships, so we had to do something about it. I remember that very clearly. I was a much younger man when that happened, but I remember that. Right?

So let us be clear about these assets. They did not drop from the sky. They were built by the Corporation of Hamilton.

Now, I believe . . . and, you know, the Honourable Member, Minister Scott, was challenging the lawyers. And I am no lawyer. I am not learned in this place. However, I do have a lot of common sense and experience when it comes to commerce. It is my experience that to own an asset . . . the right to own an asset also is connected to the right to have revenue from legitimate use of those assets. And the two are inextricably connected.

In other words, if I own an asset, I have a right to make an earning from that asset, so long as it is not breaking laws. Okay? And that is where we get to the wharfage and port fees that result from these properties that have been developed by the Corporation. They have a right to the money that flows from it.

Now, the Government can say, *Well, you know, you are charging too much,* or it can regulate, just like our friends in telecommunications, Minister Scott. You can regulate the amount of money they charge that flow from those assets. But they have a right to the money of the use of that asset. That is a right. That is a legal right.

And what is being proposed in this Bill contravenes that right. It is wrong. Remember, there are two sets of issues. There is the franchise issue, and there is the money issue. I do not have a problem with the franchise issue. I have problems with the money issue. So, you know, for the Government to say, *Well, we are not taking your assets,* but then you take away the ability for the Corporations to earn money from those assets, it is tantamount to taking away the assets.

Now, what is the point of having an asset if you cannot earn money from it? The only other way the Corporation could make money from those assets, if they cannot earn wharfage and port fees—the only other way they could do it is to sell the asset. And they are not going to do that. I did not hear the Government stepping up to the plate saying, *We are going to buy that asset from the Corporation,* because the only buyer in town would be the Government, right?

So I do not see anybody . . . I do not hear the Minister Cox saying, you know, *We are going to buy those wharfs from the Corporation of Hamilton.* No! So this is not equitable, Mr. Acting Speaker. It is not equitable.

The issue of the land tax . . . And much has been made by Government Members that Corporation's assets should attract land tax. Okay. You know? I think the Government has a right to charge land tax. But the Corporation has a right to charge Corporation tax on property owned by the Government in Hamilton. You cannot have it just one way.

An Hon. Member: You have got to be joking.

Mr. Everard T. (Bob) Richards: No, I am not joking. The principle . . . you need to think about that principle, Honourable Mr. Burgess.

[Laughter]

Mr. Everard T. (Bob) Richards: It has got to be good for the goose and the gander. That has got to be good for the goose and the gander.

So if the Government says to the Corporation, *You have to pay land tax,* well, then the Corporation should say to the Government, for this building that we are in now, that the Government Administration building, for Global House, the new place they built there, and all the other Government-owned properties in the city of Hamilton should attract Corporation tax. Then it would be equitable. Then it would be equitable, right? So, you know . . . if you are going to do that, you have got to do it both ways.

Now, I was talking about responsibility. Much has been made (and I think rightfully so) that a large portion, 32 per cent, of the earnings of the Corporation will be basically siphoned off to the Government. What is missing here is a plan of how to help the Corporation make the adjustment to that. Because the Corporation still has responsibilities. And I get back to responsibility. They still have responsibilities.

They have responsibilities to do what they have been doing all along—to keep the city clean, to keep it safe, to collect garbage. People are making a fuss about garbage. All the things that we see Corporation workers doing, you know, is a responsibility of the Corporation. Now, you can—

An Hon. Member: As it currently stands.

Mr. Everard T. (Bob) Richards: As it currently stands.

An Hon. Member: And you agree that it can change.

Mr. Everard T. (Bob) Richards: Do not give me half a doughnut or give me a pig in a poke. If you are going to tell me that you are going to take away this money, you should also be telling me what adjustments are going to be made for the lack of that money. Nothing has been mentioned about that. That is not good enough. That is not good enough. It is not good enough. It is definitely not good enough.

We have a Government here that is . . . the Honourable Member said that, you know, they have made a commitment to preserve jobs. But, Mr. Acting Speaker, we have seen commitments all over the place from this Government that really have not panned out very well. They have not panned out very well. And I could list them, but, you know, there will be, sort of, howls of protest. But they know what those commitments are that have not turned out the way they want.

[Inaudible interjections]

Mr. Everard T. (Bob) Richards: I am hearing all kinds of stuff, even though I have not outlined them.

But the thing is that you cannot remove a stream of income and then have people just go ahead and sort of smile and take it on faith. I am sorry. This is not happening, not in 2010. It is not happening. And it is not reasonable, either, particularly in view of the fact that the same Government last year or the year before last said, you know, *We are going to take you over*. Right? So, you know, you have to come with a reasonably complete package, and this is not one, by a long stretch.

I mean, think of it, Mr. Acting Speaker. If the Corporation does not get any sort of relief here, then they will have to cut back services or increase the little bit of taxes that they can levy. And that would certainly—

An Hon. Member: And if they do get relief, what happens then?

Mr. Everard T. (Bob) Richards: Well, if we get relief, we only need to see the colour of their money, a simple thing like that. "If" is a big word.

An Hon. Member: But you said if they lose it, too.

Mr. Everard T. (Bob) Richards: No. But that is what we have here. There is no "if." No. What we see here today is no "if." The only "if" that exists is if there is some sort of compensation because right now, with this Bill, there is none. So do not make that mistake. Do not make that mistake at all.

So we could be looking at tax increases for people already in the city, which would not be good. I mean, Bermuda is already an extraordinarily expensive place. And the very good work that the Honourable Minister of Finance has done with Economic Empowerment Zones, a lot of those folks have businesses in this city, and they would be particularly hurt in this sort of situation.

So there is a lot at stake. There is a lot at stake.

So what are you going to do? Hurt them again?

[Inaudible interjections]

Mr. Everard T. (Bob) Richards: Oh, jeez. Thank you very much. No. We will not hurt you.

So, Mr. Acting Speaker, these are the outstanding matters. They are important outstanding matters, and that is why there is great concern about this Bill.

I am hoping, at least from the franchise standpoint, that we are looking for more time so that we can work out this franchise thing. I am just hopeful and hope we will see in committee that that works out fine. But insofar as the money thing is concerned, this is just bad legislation. And is inequitable. And there is no way we should countenance a situation where one inequity is piled on another one.

Thank you very much.

The Acting Speaker: Thank you.

The Chair recognises the Honourable Member, Minister Paula Cox, from Devonshire.

Ms. Cox, you have the floor.

Hon. Paula A. Cox: Thank you, Mr. Acting Speaker.

There has been a lot of weeping and wailing and almost gnashing of teeth that has so rounded this issue that we are debating today. And I think it is time to turn down the volume and to remind ourselves why we are here. And I think really what the essence of the debate is about, whatever your perspective, it really can distil into how Members of this Honourable House see the issue in terms of special interests and in terms of public interests.

The Government of Bermuda has taken the position that we believe that there has to be a levelling of the playing field and also that the pendulum has to swing a little further on. And part of the democratisation of the process and also reform of Government and non-Government structures—this is part of the process.

And I think that those who wish to further political ends have taken great joy in suggesting that there is this complete and utter breakdown and polarisation of the parties. And yet that is belied by reality. That is belied by reality, because if you look at the process of relationships between both the Corporation, the two municipalities, St. George's and also Hamilton, you have seen that over the years there has been a continuous practice of dialogue and also of sharing of costs. I would not say power sharing, but a

sharing of costs, whether you are talking about the fire service, whether you are talking about some of the docks issues, and on a number of areas.

And I am going into some detail. And I am also going to talk about the context, because what we have to not allow ourselves to be pigeonholed into is into a position where what happened with an Honourable Member at this House becomes, I suppose, more than just an isolated incident. And what we see is that people, for their own petty, partisan, political ends, are misstating, misrepresenting and misquoting the actual position. You even had the pithy remark made about the Government having difficulty, is reluctant to pay the sinking fund.

Honourable Acting Speaker, you are well aware, because it has been put into public domain, that this year, this financial year, the Government of Bermuda, having taken the position—which was unprecedented hitherto—of not putting in a prior financial year the monies for the sinking fund, we not only made up what we did not put in that year, but we also put in for this year. So you had about [$]29 million. So to say those sorts of comments, all they have done and said for seems to be almost to incite some sort of public outrage. And it goes counter to what Honourable Members of this House should be doing. It is an abomination. And it is reprehensible, reprehensible.

Mr. Acting Speaker, what do you think we should do if we want to construct a model for reform? Because I have heard some Honourable Members seem to talk out of both sides of their mouths, almost in a sort of schizophrenic frenzy, Mr. Acting Speaker. Because on the one hand, they say, *Tread softly and gingerly and gently.* And then on the other hand, they seem to want this Bill to be the *show everything*.

If you want to have dialogue and conversation, are you going to do the quantum leap in one Bill? And if you are talking about wharfage fees and the fact that there is going to be a change . . . you know, normally, the way the fiscal matters are dealt with is within budget. That is some time away. Different leader, maybe even different Finance Minister . . . you give them a chance to sit down, dialogue, and talk with the other Party.

And, given the practice of dealing, Mr. Acting Speaker, given the course of dealings, I can see when I read through . . . and I stayed in the Ministry late last night. There were about four thick files. It was like going down Memory Lane. I read correspondence with the first Minister of Finance (of this Government) where money was going to be given to a grant of, I think, $1.6 million towards a sewage plant. I look at the money when there were monies that were going to be given from the Coordinator of Security Services when I sat in the place of Labour, Home Affairs, and Public Safety, to help and partner with the Corporation in terms of the funding of security services and dock.

So, I mean, let's get real here! People had better start realising that, if they really want this country to be sustainable and to be a safe place, they had better start leading in terms of, as leaders of this country. And leaders of this country means that a government, and those who are in government positions, had better start being responsible if they want some respect.

And people must also have a sense of context in history. Do not diminish when the Honourable Member who brings to this table and brings to this House about the 1700s. Because what he is seeking to tell you is that this preceded a period of Cabinet Government. So if you did not have Cabinet Government and you had these different types of organisations, where do you think the power would have been?

And so it is illogical. Let us look at the legacy. And do not be so dismissive and so disrespectful. Because if we are serious about wanting to change the pattern of relationships, and if we are serious about wanting to have some crucial conversations with the Corporations . . . And let me be very clear. I remember going on a horse-and-buggy ride with the former Premier in St. George's. It was a male Premier, Mr. Acting Speaker.

[Laughter]

Hon. Paula A. Cox: And I was shown all the issues that were of concern to them. And they also wanted to see how we could change the paradigm and how the Government could basically fund their issues. And you do not see that there has been a large or any ferocious outcry from the Corporation of St. George's, because there has been this pattern of dealing.

We are civilised, you know. We are civilised. Even though people want to demonise us. You would think that, the way they are talking, that we are Simon Legree, out to outfox, out to outsmart, and to strip and go on an acid-stripping exercise. Far from it! I only wish, Mr. Acting Speaker, that when we became the Government we had had a fully independent audit. And it is not to diminish any form of government, but it draws the line in the sand and lets you know crystal clear where the lay of the land is.

As the Government of Bermuda we have a Consolidated Fund. We have accountants. You have the checks and the checkers. You have an Auditor General. You have Internal Audit. You have the Public Accounts Committee. Nobody should be afraid of transparency. We are going to be debating later on PATI, Public Access to Information. Seems to me that it is a good idea.

So, you know, Mr. Acting Speaker, I am going to go on.

The Acting Speaker: Yes.

Hon. Paula A. Cox: And I am going to try not to go on and on, but it is a lot to say.

I think we all recognise that the city is a magnet to economic activity. And, Mr. Acting Speaker, let me tell you. Do you see these little green papers? These are special papers for Cabinet Ministers, which are secret. However, we are in the public domain talking about municipalities. So I think that the secret is out. We are talking about reform.

And just so you get a sense of the mind of the management of the company, of the country and what we were seeking to do and why we are at this place where we are today, it was the idea that, *How can we better manage so that there is less of a fragmented system of service delivery for the people of Bermuda? What about the absence of a democratic structure and the inherent inequities that disenfranchise the majority of the Corporation of Hamilton's residents?* Because I have to confess, this is something I feel very passionately about.

It seems to me that if the town and the city of Hamilton is really the economic lynchpin in many ways for the country's national economic development, surely, surely it seems that such a key national asset should have much more of a buy-in and much more decision-making in governments that just this narrowly elected group. Surely this is something which speaks to the country, not just little narrow what is seen as papittos [SOUNDS LIKE] And so that is why you have to look at how you should change the governance, how you should make it broader, more equitable, more participatory, and also look at the process of transformation. That is what we call progress, you know, Mr. Acting Speaker.

So part of . . . And you do not have . . . It is not about siphoning off. You want transparency. You want probity. You want economic efficiency. You want accountability. And you want equity and fairness. And that is what is at the crucible of the discussions and the thinking of this Government.

Now, Mr. Acting Speaker, what are some of the issues that we have to think about? Think about? What sort of models could work if you are talking about a modern system of governance? And do not just think about what X or Y things, Minister X or Y. What is some of the international best practises? There are a few. We could have a repeal in integration model. Did not seem to really get buy-in. You could have a business improvement district model. You could have a quango-like model, more like the Wedco. You could have the Port Authority model. And you know one that I like? The economic development model. That is the one I like, where we better align so that the country is seen to benefit.

And there is a question, when we talk about pendulum and balancing. Clearly, what you take, you must find a way to give, in some ways. If we are going to be taking and you see in some ways the shrinking of revenue, then does this not make sense when you are looking at how Government can help to get in the picture in terms of the delivery of some of the services? Does not that also mean there will be a correlative decrease in some of the activities that the Corporation will have to do? Because you cannot expect people to do more with less, unless there are cuts, or unless there are increased taxes.

Not good, certainly not for my Economic Empowerment Zone, or the Economic Empowerment Zone Agency, because what has been the practice hitherto is that those who sometimes can least afford it have found that they find it a more punitive arrangement. That is why this Government took the position with even the Corporation of St. George's, so that there would be no double taxation. We did not bring legislation here; but I was able to use a fiscal tool and give the Corporation of St. George's a grant of about $350,000 so that the residents of that area were not double taxed.

Do you not think that a Government that did that in one area . . . does it take too much to conceive that that might the thinking of the Government to do also in another area? I mean, you do not need to paint us as bogeymen, you know, Mr. Acting Speaker.

The Acting Speaker: Yes.

Hon. Paula A. Cox: It does not serve the country's interests well. It does not serve governance well. It does not serve the people of Bermuda well.

So, Mr. Acting Speaker, I think that as I look at some of the comments that were made, and I am going to . . . this is where I spent my time, as I could not bring those four stacked files here. I would not be able to see over and see the glorious faces on the other side. And, you know, Mr. Acting Speaker, I have listened to this. And I am going to quote, because I did a lot of typing last night. The PS of Works and Engineering, Mr. Stanley Oliver, on October 5th 1999, said he was approached by Corporation Secretary Roger Sherratt, with shipping executives and Stevedoring Services, to discuss Hamilton Docks.

"They basically asked if Government would give them" (and he underlined in his memo "give") "either TCD or Marsh Folly for a break-boat depo. When I asked if they were interested in a purchase, they indicated that there was a significant problem looming that would be Government's problem."

So you see, they saw that these issues, contrary to the UK . . . you know, they say if you give a dance, you have got to pay the band. You cannot take the benefits and not the burdens. But they are seeking to take the benefit, but say, *Well, that is the Government's problem, so you deal with it.*

Well, I am just saying that to say that they saw and anticipated problems, and they came to this Government (because by 1999 we were a Government) with a question of not power sharing, but they wanted bounty to be given.

Now, what I am saying about what we are doing today is seeking to start the process. Start the

process of transforming the relationship, not by any land grab, not by any asset-stripping, but by talking like sober, matured individuals who care about this country and who want to see wealth creation in this country, whether it is through the docks or waterfront, the moving of the docks, but to talk about that. And what we see here is legislation which is the start of part of that transformation.

I know, Mr. Acting Speaker, we have about five, six, seven items. And I suppose I will be saying *Good morning* at breakfast later today. So I am not going to beat the issue because I know there are probably a number of others who wish to speak. And, Mr. Acting Speaker, I just think that we have got to remember that we really are all in this together. And it is about moving Bermuda forward together.

Thank you, sir.

[Desk thumping]

The Acting Speaker: Thank you, Minister.

The Chair recognises the Honourable and Learned Member, Mr. Crockwell, from Pembroke West.

Mr. Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, I would like to pick up where the Honourable and Learned Member who just took her seat ended when she said, *We are all in this together.* And that, I think, should be the focus of what the ultimate goal of this particular piece of legislation and what we are going to do here today as legislators . . . that should be the ultimate goal, to ensure that everyone, at the end of the day, benefits from what we do.

And let me say, Mr. Acting Speaker, that I have only been in the House for two-and-a-half years. And during that period of time quite a few pieces of legislation have come through this House. And I have always had the ability to take a position with confidence. Whether or not that position evoked criticism from a section of this community, whether it be gaming or whether it be dealing with the double jeopardy rule, which are recent debates, I have never had any disquiet in taking a position.

But I will tell you, for the first time in my short Parliamentary career, I have had serious disquiet. And I have been involved in a personal dilemma as it pertains to this piece of legislation. And I do not think the BDA in our short existence has caucused so much in such a short period of time, right up until midnight last night, trying to figure out how to deal with this piece of legislation.

Because the reality is, there is no question, Mr. Acting Speaker, that the Corporation needs reform. There is no question. And although I will not go into the historical details that other Members have already provided the House (it is going to be a long session), but the fact of the matter is, there is unfair voting practice within the Corporation. We know that. And I believe the Corporation accepts that. And we support the expansion—and that is very important—the expansion of the franchise, 100 per cent. It is inequitable that there are residents in the city that have been denied the right to vote for decades. That is wrong.

It is also wrong that those who own businesses and pay Corporation tax, or those who own property or are leasehold owners of property, and if their Corporation tax is in arrears they cannot vote as a result of that. That is wrong. It needs to be reformed.

It is also wrong that, historically, North Hamilton has been neglected by the Corporation. I was just in North Hamilton yesterday and talking to some friends of mine who own property there. And I asked them their opinion. And they said, you know, they were tired of going to successive administrations of the Corporation, begging them to please give them the requisite attention. *Please invest in North Hamilton. Take a walk on our sidewalks. See the disparity.* And even up until today, their views were that their needs are not being met.

So there is no question that there is need for reform. We know historically—and this is what concerned me about the demonstration today. Mr. Acting Speaker, if individuals would have taken my advice, there would have been no demonstration. But what upset me is the fact that when we deal with emotive issues such as this, you have to take the historical context into consideration. You have to do that, because that will add significantly to people's responses. And historically we know that the Corporation has had a bias toward white interests, white business interests in this country. That is an unfortunate fact of our history. And so we have to take that into context when we deal with the matter today.

And so, with all of that, and other information, Mr. Acting Speaker, I was personally torn because I want to ensure as a legislator that we reform an entity that is in dire need of reform, and that we ensure that there is equality in this country. And so my heart wanted to do that. In my heart, I wanted to support the Bill, and my colleagues wanted to support the Bill.

But my Parliamentary colleagues and I have a duty to scrutinise and examine legislation that comes before this House. And we have to make a decision whether or not the legislation is good for the country. And, as the Honourable and Learned Member who just took her seat said, *all of the country—all of the country.* I was not just elected by one segment of the community. I was elected by all, a diverse representation of the country. And so my duty is to ensure that the legislation benefits all of the country.

And so, Mr. Acting Speaker, there are challenges with this Act. And I think we all have to appreciate that. Each and every one of us in this Honour-

able House, we are all intelligent individuals. And if you look at this piece of legislation, which, maybe because of the shortness of time, is not the best-drafted piece of legislation I have read since I have been here. But there are some glaring issues in the legislation that I think need to be addressed.

I think many Members before me have already highlighted these areas, but they do deal with the issue of the wharfage fees, and with the franchise. I want to deal with the franchise, Mr. Acting Speaker, first. And let me reiterate: Without question, we support the expansion of the franchise.

But, Mr. Acting Speaker, what this Act is doing, it is not expanding the franchise. This Act is *transferring* the franchise. And there is a significant difference between expansion and transferring. When you expand, you *add to*. When you transfer, you *take from* and give to. And that is not equality. That is not equality.

Whilst I was visiting the North Hamilton, I asked my friends there that own businesses on Court Street and on Angle Street and on Princess Street and so forth. I said to them, *How do you feel about the fact that you will now not have the right to vote? Although you have been invited by the Government to invest in the EEZ? And you took them up on that invitation, and you invested your money and your time and your labour. And now you are being told that your vote is going to be taken.* And to the individual, they said they feel aggrieved. They feel aggrieved.

In fact, I acquired permission to use their names. But I am not, Mr. Acting Speaker, because of how emotive this issue has become. But they feel aggrieved. And they further said that they were never consulted about the fact that they are going to lose their right to vote. That cannot be right! It cannot be right that you are going to take . . . I am not talking about Front Street. I am not talking about Reid Street. I am talking about North Hamilton, because that is who I am concerned about today.

The proprietors in North Hamilton are losing their right to vote, and they feel aggrieved. This is not an expansion. It is a transfer. And we have to all agree that if you have a business in the city—and I think I have heard that this is a business hub—and you are paying Corporation taxes, that you should have a right to vote, that you should have a right to say how the affairs of the Corporation should be managed. And it cannot be right to say that we are going to take that from you completely.

I agree, Mr. Acting Speaker, that there is an inequity where an entity can have the opportunity to have multiple votes, where they can nominate multiple individuals because there are multiple businesses. That needs to be dealt with. And I have spoken to some brilliant minds in the law to figure out, how can we deal with it? And they have said, invariably, *It can be achieved. But it is complex, and we need time to come up with the right formula to ensure that you do not have these multiple representations.*

But we need to take that time to get it right. But to take the vote away completely from the business owners is wrong. And, you know, if we are here to preserve and protect civil rights, civil rights has never been about transferring rights from one to another. It has always been about ensuring that there is equality of rights.

And, Mr. Acting Speaker, what this particular Bill does is it cures one inequity, but it creates another one. And that cannot be right. And what my honourable and learned friend said earlier today was, *Let us get it right!* Let us amend the Act in these areas and ensure, for the time being—if we cannot please everyone right now, if, in the interim, there may be individuals who have opportunities to have multiple representation, okay, fine. But let us think about the owners down on North Street, North Hamilton, and ask the question, *Is it fair to take away their voice?*

And let us not do that here today. Civil rights is about equality. And I do not think that we have achieved—

[Inaudible interjections]

Mr. Shawn G. Crockwell: Well, people own the businesses, Mr. Acting Speaker. People own the businesses. And it is not fair—it cannot be fair. It cannot be fair, Mr. Acting Speaker, to say that, *We want you to provide the revenue to run the Corporation, but you cannot have the say.* And if the other side thinks that that is fair, then that is their position. But I think it is fundamentally unfair to take away their voice.

Now, Mr. Acting Speaker, very briefly, I am going to deal with the wharfage issue. And the reason why is because I have been disappointed. You know, the BDA moved to ensure that we got full consultation. We had an opportunity to meet with the Corporation, and we had the opportunity to meet with the Minister responsible, Mr. Zane De Silva, and the Secretary to the Cabinet. And in both meetings we received a surfeit of information, and we asked many questions and got answers. And to our disappointment, the information did not dovetail. The information we got from one entity was almost antithetical in some areas to the information that we got from another entity.

And on the wharfage my concern and the BDA's concern is that, if the Corporation owns the docks and the wharfage fees are raised as a result of goods coming through the docks, then they should have a right to some of those fees. And if they are now also being told that they have to continue to maintain the docks, it seems completely inequitable that they have to incur the expenses of the docks or they cannot receive the benefit. The Honourable and Learned Member who just took her seat talked about benefit and burden. Well, that is exactly what is hap-

pening here. It appears that the benefit is now being taken away, but the burden remains.

And so there was some concern there. And so we raised these concerns. And one side felt that the entire $7.7 million is going to be taken, which would financially cripple their ability to be viable. And then the other side said, *No, that is not the case. We will provide the Corporation what they need based on their budget.* And all we are saying is that, if that was regularised, evinced in legislation, then there would be no disquiet. And how could that be a difficult solution? If that is the intention, put it in the Act. And then we will know for certain that there will be benefit and burden.

Mr. Acting Speaker, I do not wish to prolong the argument. We are going to be here very long. But I think at the end of the day, we have a responsibility as legislators to do the right thing. And although I have been torn on this issue, I have to come back around to the question, *What is my duty and what is the goal of this Honourable House?* And the goal of this Honourable House, Mr. Acting Speaker, is to ensure that we pass legislation that is good for the country. And as it is presently drafted, this Act does not do that.

I encourage Honourable Members, Let us get it right. Let us set a good example today and show the country that we have their best interests at heart.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Member.

The Chair recognises the Honourable Member, Terry Lister, from Sandys South.

Mr. Lister, you have the floor.

Hon. Terry E. Lister: Thank you, Mr. Acting Speaker.

Mr. Acting Speaker, when we think about this debate today, we really have to ask ourselves, *Why are we here? What is our responsibility?* We are the legislators. It is our job to look across the land and try to ensure that there are laws and rules that make sense for everybody and that are fair to everybody. Our job as Government is to try our very, very best to bring people together and bring the country together, not tear people apart.

It has been said that this debate, as such, started in June of 2008. It has been two years, and on this issue it has been a long two years. It has been disquiet, it has been a lot of unsettlement. Lots of things have been said. Lots of things have been said that need not have been said. But here we are today.

Attitudes sometimes can really get us into trouble. Attitudes can be part of the problem. And, you know, I was told years ago that when you get into positions of responsibility, one of the things you are supposed to do is check your attitude at the door. Leave your own feelings out. And work on what is good for everybody. This issue has seen a lot of that. Rather than facing up to the Bill and what was coming, we let attitudes get in the way and behaviours run astray.

There is an unpredictable factor when you invite a crowd in. Post-lunch, many of our speakers discussed what went on over the lunch hour. When we were here before lunch, nobody knew they were going to discuss that. You know, we are talking about something that has been discussed for two years. And then, a big part of the afternoon's discussion is around something that happened over the lunch hour.

We all would have been better off, and the debate would have been better off, if those folks had sat by their radio and listened, just like all those who are listening now. Coming out and getting emotionally involved in an issue does not do anybody any good. Nobody benefits from that. And in certain times what it really does is harden people's positions. It does not soften. It does not give us room to work. Instead, it pulls the people apart. And so, I have to say I am disappointed that the lunch hour took place in the way that it did.

Well, we have had our two years. And we are here now. Let me tell you that I am pleased that we are here now and pleased that today we can deal with this issue. And we really should look at the Bill and talk about the Bill and what it is going to do.

There was much thought that the Government was going to strip the Corporations and they would be no more. It was said. It was bandied about. And anyone who felt that the Corporations had a role to play—and I am certainly one—would have felt very concerned that the Corporations were going to be stripped and would be no more. And so, the amount of angst associated with that only made sense. The amount of frustration and concern made sense.

But as you go through a process, and when sensible people talk and think and act, you get closer together. And I think what we see before us today is just that. We do not have a shutdown of the Corporation. We do not have a repeal, as such, of the old Act. We do not see the Corporation being pushed to the side. What we see are some fundamental changes taking place. And, you know, I have to think that if we had this position in front of us today placed on the table in June 2008, we probably ought to work through it pretty quickly without a lot of hassle, without a lot of fights.

I have not heard anybody, not one person here today, say, *Do not let the residents vote.* No one said that. No one is prepared to say that. So we could have gotten to that point pretty quickly. We could debate over whether the companies and the businesses should have a vote. We can debate over whether people working in the city should have a vote. If I own a building in the city, maybe I do deserve a vote. And if I am paying the taxes, then maybe I certainly should have a say.

However, you come around, really, to the question of, *Is the Corporation about to end?* No.

What is going to happen is that changes are going to take place. Yes. So what that means is, the discussion is about to start in a very serious way. Once we pass this legislation, the Corporation enters into a new age, a new way of doing business. And so the Corporation undoubtedly will sit down with the Government and discuss the things that need to be done.

The amendment, or the proposal for an amendment, from my colleague Mr. Pettingill, whether that is accepted today or not really does not make that much difference. What do I mean by that? I would expect that going forward that will be part of the discussion. Because I have heard from all parties that we have not had the type of discussion that we like to have. This, as some of the lawyers say (I have heard them say), focuses the mind. They said, *Now they will discuss what needs to be discussed.*

And so, nothing is lost here today. All the angst and excitement, as far as I am concerned, somebody stuck a pin in a balloon and it all went out. We really should be able to debate this in a calm and rational manner, deciding what we agree with and then inviting the Minister and other Representatives of the Government, and the Corporation, to sit down in that period between now and April . . . good gracious! You know, we say a week is a long time in politics? Between now and April is a lifetime. It is a lifetime.

And so we can expect the parties to sit down between now and April and work out what needs to be worked out, and come back and have, you know, if we are going to amend it in due course, to come back and amend it. And the whole debate might take 20 minutes because we all worked it out and we are okay.

Mr. Acting Speaker, the idea of one rushing in really bothers me. And we have said that. There has not been a rush. It has been a long time. It has been the entire summer more than anything else. And so here we are. We have worked our way here through it.

The idea that Government is going to take away $7 million of the Corporation's money and then leave the Corporation wondering how it is going to pay its way is a nonsensical idea. I mean, I value the city. I value being able to drive into work and go around the city and see a clean, attractive city. Why would we pass legislation, why would we take a position that is going to denigrate the city? That makes no sense. We have parks in this city that are beautiful, from Barr's Park to Par-la-Ville Park to Victoria Park. Do we want those to fall apart? No. And if the management of those parks has to fold to the Parks Department within the Ministry of the Environment, I am sure we will get on with it. Can we handle that?

An Hon. Member: Yes.

Hon. Terry E. Lister: He says yes. The Minister says yes.

And if the trash has to be collected by the fellows who collect trash from up and down Bermuda, I think the Works man is going to show me that we can do that. Can we do that, Minister?

[Inaudible interjection]

Hon. Terry E. Lister: Well, there you go. There is another answer.

And, you know, at the same time, though, at the same time we can be consolidating and saving a few dollars along the way. That might actually fall out. And at a time when the economics of the country are challenged (I will use that word), putting together a plan that actually saves us, collectively, some dollars—and I am not talking about firing this worker and that worker. But in the Government side and in the Corporation side, we have people every day getting older. So we may have some retirements. We may have people getting other job opportunities outside of the Government, outside of the Corporation. That is attrition. And so we can close the numbers down and save the people of Bermuda some money while still delivering quality service.

My gracious, does that not sound like a good idea? Sure, it sounds like a good idea. At this point in time where we are, consolidations of various sorts can only benefit us.

And, you know, the thought that the Government and the Corporation are going to hold hands and work together on various projects, that excites me. That excites me. I have got to think that is a good thing. And, you know, it was not that long ago that the Government and the Corporation of St. George's were almost at fisticuffs. There was a gap. There was a gap. And now we have brought it together. And the Corporation of St. George's and the Government are getting on quite well, making things work.

[Inaudible interjection]

Hon. Terry E. Lister: You see? You just have to listen and figure out what it is that people really need. And sometimes, what they need is not all that great. That is a point being made. And so we can do that here.

I am not going to take up a lot of time, Mr. Acting Speaker. In fact, I will rush ahead, since everybody is rushing. I will rush ahead to, *How will you vote? What are you going to do with this, Terry?* I am going to vote for change. I am going to vote for progress. I am going to vote for tomorrow. And voting that way, I have no choice but to vote for this measure.

Thank you.

The Acting Speaker: Thank you, Member.

The Chair recognises the Honourable Member, John Barritt, from Devonshire South, Mr. Barritt,

the Honourable Member, John Barritt, and Learned Member.

Mr. John Barritt: Thank you for the commercial, Mr. Acting Speaker.

[Laughter]

Mr. John Barritt: I am grateful for the opportunity not just to speak, but to follow the three previous speakers. And just for those who may have joined, the three previous speakers were the Honourable and Learned Member, Ms. Paula Cox, who speaks for Finance and is Deputy Premier of the Government; the Honourable and Learned Member, Mr. Shawn Crockwell, who speaks for the Bermuda Democratic Alliance (not the only one who does, but he is a member of that); and then the Honourable Member who just spoke, Mr. Terry Lister.

The reason I am grateful for that is that I like the tenor. I appreciate the approach that all three are taking to this particular Bill. I cannot say I agree with everything they said, but the tenor is good, because there is one thing that I think . . . certainly in my position on this, is that there has been more heat on this particular Bill and the issues it involves than there has been light. And we need a lot of light on this particular issue, in my view, Mr. Acting Speaker. And I had that position even before today when this was first tabled, because there are a lot of issues here that, as people have seen and understand and accept, are very emotive as well. And people have touched upon that.

And frankly, I have already featured in the debate. A number of speakers have referred to me, even though I had not yet spoken. And certainly in my capacity, they said that they wanted to hear from me as the spokesman on this side for legislative reform and public administration. The Honourable and Learned Member, Mr. Scott, who singled me out, says he does not want to hear my usual arguments with respect to process.

Well, I am sorry, sir. But process is very important.

[Inaudible interjection]

Mr. John Barritt: That is right. I have my opportunity to speak. In effect, the Honourable Member Mr. Lister spoke to that very issue, how process is important.

The Honourable and Learned Member who speaks for Finance touched upon process and how process is important. It is never to be overlooked. Because, you know . . . Mr. Acting Speaker, forgive me, people can make of this what they will, but I am growing quite wearisome of the way in which we continue to do this country's business on some important issues.

I look at what has happened and what has been said inside and outside this Chamber, most of which is counterproductive, not helpful at all. And the sad, sorry spectacle that we have seen, you know, Mr. Acting Speaker, probably could have been scripted by a blind man. It is like history all over again, déjà vu all over again that it comes to this. The way things have played out is almost predictable. And it has got more to do, I suspect . . . no, I take that back. Not, I suspect, I believe, with politics, PLP, UBP politics, with a strong component and undercurrent of—not even undercurrent—race, and less to do, less to do sometimes with what is best for Bermuda. That is where the Honourable and Learned Member spoke, Mr. Crockwell. I share his views.

All of it has to do with the way in which we are proceeding with this particular Bill. Now, look. I like to think of myself as a fairly bright fellow, an industrious and keen Member of the House of Assembly who does his duty, not just from time to time, but on a regular basis. But I have got to tell you, Mr. Acting Speaker. I get a Bill on a Friday night, late Friday afternoon. I have got to come back in the House on Monday to deal with business, and then deal with this the following Friday. I have to tell you, Mr. Acting Speaker, I do not know the rest of the world that people live in in this House, but I am a part-time politician. I have another job. And I try to make my commitments up here. It is very difficult to both analyse this Bill, consult with the stakeholders, whether it be the Corporation or the Government Minister, and then, let's not forget one important component, the people of the country.

And the Honourable and Learned Member, Mr. Crockwell, bless him, was able to talk to people. He went back in town and got some feedback. He got some feedback. And I have had a little feedback, but I am going to admit, I have not had the time to study this and do some of the work that is required.

And, Mr. Acting Speaker, I want to say this. At one stage (and I am not going to engage in these type of histrionics), but at one stage I said, *You know what I ought to do when people start to shove things down my throat?* And that is the way I felt as a legislator on Friday. I am sorry. Normally, we at least get two weeks.

[Inaudible interjection]

Mr. John Barritt: No, no. No, no. Please do not say I always feel that way, the Honourable Member, Mr. Blakeney.

[Inaudible interjection]

Mr. John Barritt: We have practice here, and precedent, Mr. Acting Speaker. Do not let me be distracted by these chatterboxes, please. You can speak! You will get your turn!

An Hon. Member: And I will.

Mr. John Barritt: Why do they feel the need to chirp like that, Mr. Acting Speaker? If they have got something to say, say it! If they have got a point of order, take it! If you have got a point of information, make it! But this is where we lack respect up here!

[Inaudible interjections and general uproar]

Mr. John Barritt: I am going to catch and compose myself, Mr. Acting Speaker, as I said I did not want to engage in such histrionics here this evening.

You know, at one point I said, *I will tear this Bill up in little pieces and send it back to the Minister.*

[Laughter]

Mr. John Barritt: But, you know, that would be childish, would it not? And that would be disrespectful. It would be both those things. And as quickly as that thought came into my head and brought a chuckle to me, too, I said, *No. I am not going to go there. I am not going to go there.*

An Hon. Member: But you did.

Mr. John Barritt: No, I have not torn it up. I have it in front of me. I have it in front of me.

And I have heard this is a very simple matter that we have before us today. Riddle me this, then: If it is so simple, why did Government see it necessary to engage consultants for $800,000? If it is so simple . . . and here is the other thing—

Hon. Michael J. Scott: Distillation.

Mr. John Barritt: "Distillation," the Honourable and Learned Member, Mr. Michael Scott, said.

But they felt the need to engage consultants, outsiders, some of them, I understand, at the cost—they were prepared to pay $800,000. And so far we understand they have spent $665,000, which must make this one of the most expenses pieces of legislation to come to this House in a long time.

But yet, they want us to believe it is a simple matter. It is not a simple matter. It is not a simple matter. There are a lot of issues here that people have spoken to already, in terms of which way one might ought to go. I am grateful to the Honourable and Learned Member who speaks for Finance. She read from a paper, which I thought might have been something that went to Cabinet, that showed the sort of extensive presentation of options that they had before they came to this House with this legislation.

This is the kind of discussion I would like to have as a legislator, as a Member of the House, who someone has called upon to vote. The Honourable and Learned Mr. Scott said that I could make my mind up that I do not need meetings. With respect, sir—with respect, he sits in Cabinet. I do not know how many meetings they have had on this issue and how many opportunities they have had to hear or even read the consultants' report, which I very much would like to see. I would like to see the roadmap as to what is planned, and I will come back to that.

[Inaudible interjection]

Mr. John Barritt: Well, if you invite me to come to the Cabinet, I will give that serious consideration. I would be duty bound to do that.

But, no, I do not want to go in Cabinet. Do you have to go into Cabinet to share information?

Here is another thing. Here is another thing, Mr. Acting Speaker, when it is a "simple matter" that we should be able to deal with in a week. If it is so simple—

[Inaudible interjection]

Mr. John Barritt: I am sorry. I have had five minutes? I beg your pardon?

[Inaudible interjection]

Mr. John Barritt: I have 30 minutes, Mr. Acting Speaker.

[Inaudible interjection]

Mr. John Barritt: Do not tell me what you wish. Tell me what I am entitled to.

Mr. Acting Speaker, you took me right off my point. Yes.

I was going to say this, that if one can make up their mind so quickly, riddle me this, then: As far as I was able to read (and I do not mean to highlight the leaks in your caucus when I say this), you had two bites at the cherry in caucus. Something went wrong the first time. It got held up, what was proposed to do there.

An Hon. Member: Who told you that?

Mr. John Barritt: It is what I read in the newspaper. And then afterwards, I learned the PLP was investigating, so there must be some truth to it. So you had the opportunity to go through it twice before you came to the House. We do not get the benefit of this on this side. But I am not just complaining for myself, because it underscores, Mr. Acting Speaker, what is wrong with this system. What is wrong with this system, that you do not get the opportunity to put it in the wider context and have the benefit of these studies in these various options?

You know, I asked Parliamentary questions back in February about what was going on. I did not and could not get an answer. But you know what I did

find out through the Speaker's Chambers? Governor is maintaining the information is secret!

An Hon. Member: That is nonsense.

Mr. John Barritt: No, that is not nonsense. I saw it in a memo.

The gall! The gall, Mr. Acting Speaker, to say that this is secret information that should not be made available to Members of Parliament. And do you want to know why positions get entrenched? Why people take attitudes? That is what happens. That is what happens.

Now, the Premier spoke that these debates seem to always occur on issues like this, and it is always about authority and procedure. I understand the point that he is making, that there is authority at stake here. And Government is asserting its authority, and the Corporation is trying to maintain its. It happens. And underneath that, sort of right there as an undercurrent, not always stated, is race as well—is race as well, Mr. Acting Speaker.

And I got picked on. The Premier, in fact, said that I accused Government of being divisive on this. Well, that is a short summary. What I actually said, Mr. Acting Speaker, if you will allow me, is the way Government has chosen to proceed with this, in our view, is so unnecessary and unhelpful. (I am referring here to the Bill and doing it within a week.) It is a classic case, unfortunately, of sowing seeds of division rather than dialogue, and in an area—get this!—where there is common ground and widespread agreement on the need for reform of the municipalities.

And that widespread agreement is not just on this side of the House, not just on the Corporation, but, dare say, in the general community as well. Yet here we find ourselves in this position. And, you know, it sometimes does come down to attitude, Mr. Acting Speaker, as the Honourable Terry Lister said in his comments, and striking the right attitude. But when you do, from our point of view, push something through, try to muscle it through in this way, you do get pushback. And you are bound to get pushback.

And when you talk about how to do things (and the Premier referred to South Africa), there is one important difference, too, I think, that can be attributed to South Africa, that is unique—sadly unique—in this world. And that is the person of Nelson Mandela and the approach he took to what he had suffered and how he was going to set about making it right. It stands in stark contrast, not only to the approach in this country, but in most countries. He is a rare human being indeed, Mr. Acting Speaker.

It is that approach that we ought to learn from and try to adopt. That is what makes the difference. And, you know, it grieves me, too, when people of Bermuda have to come out and demonstrate and get carried away the way they do. That is not helpful, either.

An Hon. Member: Some people.

Mr. John Barritt: Some people. You are absolutely right. Not all people, but some people. And they get carried away. And it grieves me to see that, because it does not become helpful. As the Honourable Member said, positions and attitudes can even further entrench.

But there was common ground there. And somehow, we are off on this . . . and there is name-calling, Mr. Acting Speaker. I do not mean to pick on you. You and I used to stand shoulder to shoulder on the need to reform the way we do business up here when we were on the same side. We used to stand side to side.

The Acting Speaker: And I still do.

Mr. John Barritt: Well . . .

[Inaudible interjections and general uproar]

Mr. John Barritt: No, no, no.

The Acting Speaker: And still do.

Mr. John Barritt: The Member gives his opinion. The difficulty always comes in putting it into practice, does it not?

The Acting Speaker: Yes.

Mr. John Barritt: Does it not? That is the challenge, putting it into practice. No, it is not the easy part.

And, you know, Mr. Acting Speaker, you spoke when you were on the floor of the House. And I did want to say this, not because you are in the Chair. But I heard what you had to say about how people treat you now that you have gone over and gone to the other side.

The Acting Speaker: Yes. Mm-hmm.

Mr. John Barritt: And, you know, that is an unfortunate—

[Inaudible interjection]

Mr. John Barritt: No, no. Let me finish. It keeps going on and on in this community. And you are bound to have some resistance, some criticism for doing what you did.

The Acting Speaker: I understand that.

Mr. John Barritt: You would expect that.

But then, riddle me this. Riddle me this: You recall a time when Members somewhere on another

side used to say demeaning things about you, like call you a tally man. Remember that, when you in the UBP and all the nasty things—

The Acting Speaker: I am in the Chair. I cannot speak right now.

[Inaudible interjections]

Mr. John Barritt: All the nasty things they said about you at that time. Now you are there, it is all different.

The Acting Speaker: If you allow me to step down, I will speak.

Mr. John Barritt: Well, okay, Mr. Acting Speaker.

An Hon. Member: Do you want a point of order, Mr. Acting Speaker?

[Laughter]

Mr. John Barritt: But that is a reflection. That is a reflection of the society that we live in and our roots that are, you know . . . it is shameful, but it is incumbent on us, those of us in the House, to rise above that and not engage in that kind of behaviour and not to play to it, not to pander to it, Mr. Acting Speaker.

And I hear already that on FaceBook, UBP and Members are being described as oligarchic because we are resisting this Bill. And I am sure that is politics. Yes, I suppose it is. And what we are doing here today is politics.

But what do they call the people in their own Party who have reservations and oppose this? It is not just a UBP thing.

[Inaudible interjections]

Mr. John Barritt: No, no. But that . . . Mr. Acting Speaker, that puts the lie to the political play, because even one of their own Members in the paper said they did not support the initiative. We know there was resistance when it first went to your caucus.

An Hon. Member: That is us. That is how we do it.

Mr. John Barritt: Well, that is right. But that does not make them oligarchic. That is a nonsense.

[Inaudible interjection]

Mr. John Barritt: No, they cannot be. But that does not take away their serious concerns and their reasons. And they are shared by Members on this side. So why call us names? Why call us names?

Why? Because it suits the political purposes.

An Hon. Member: Why do you call us divisive? Why do you call us divisive?

Mr. John Barritt: Because I believe the way in which you are proceeding with this . . . and it is what is wrong with our system. Let me be generous. While the system does not operate by itself—it operates by people—the system is a bad one. It gets taken advantage of, used, and abused.

[Inaudible interjections and general uproar]

Mr. John Barritt: And they are not the first ones to do it, either.

[Inaudible interjections]

Mr. John Barritt: They are not the first ones to do it, either, Mr. Acting Speaker.

It is incumbent on us to improve it and reform it and change it for the betterment of Bermuda as we go along, particularly if we recognise it. And this Government did in its Throne Speech, the most recent one, make a promise that we were going to have a Parliamentary conference to review and modernise. Nothing.

[Inaudible interjections]

Mr. John Barritt: Look. Mr. Acting Speaker, I have been called names before. I do not like it. It happens. Look what happened when I first brought up double jeopardy. I was called racist! And it was part of a political election campaign at the time. This very Government that called me that has come forward with that proposal.

An Hon. Member: That reason had nothing to do with that proposal.

[Inaudible interjections]

Mr. John Barritt: You know, Mr. Acting Speaker, it just goes to show how politics . . . it is all politics. And it is all political games.

An Hon. Member: That is the problem.

Mr. John Barritt: Yes, it is the problem. It is the problem. And that is why I am speaking today so that . . . I am sorry. John Barritt, legislator, lawyer, is not going to be muscled on something like this.

I am prepared to listen. I am prepared to absorb and to evaluate. But I cannot be expected to do it, and I will not do it, in a week, without access to information and with more light than heat—with more light than heat, Mr. Acting Speaker.

I have some concerns with respect to this particular Bill, some of which have been articulated al-

ready. I am not going to go over them again. They are to do with extending the franchise and with wharfage and port dues. I mean, I heard the Honourable Mr. Terry Lister say, *Well, you don't think Government is going to take that away and not give them the money back.* And then you say to yourself, *Well, why are we doing that at all then, if it is just going to come right back?*

Dr. the Hon. Ewart Frederick Brown: Because the core is bad.

Mr. John Barritt: And I hear the Premier say *The core is bad.*

Dr. the Hon. Ewart Frederick Brown: Yes! Get it!

Mr. John Barritt: And indeed I heard. And that is why there is a wider debate that needs to occur here.

This legislation, I am not going to say it is half-baked. But, to me in my way of thinking, it is the thin edge of the wedge. Because there is more to . . . there has to be more to come to it! I mean, when you look at the elections and what was put together there hastily, and including a provision that the Minister can make such orders as she thinks necessary by way of the affirmative resolution, there is more to that!

Do we need that number of people on the Corporation still? Should there be fixed elections, as opposed to . . . and should they be staggered? Should the people be paid or not paid?

But that is a wider discussion that ought to be had!

[Inaudible interjections and general uproar]

Mr. John Barritt: Yes, it is like the Minister said last week when he gave his statement. He said he hopes it will engender a meaningful round of discussion, or round of meaningful discussion.

This is it? This is it?

[Inaudible interjections]

Mr. John Barritt: What is this?

And there is a concern.

Look. I am the Opposition. I am not even the Government. I keep hearing this man–man stuff. Government has the power. I just have a voice, and occasionally a vote. That is all. I do not have any power. It is the people with power who call the tune.

An Hon. Member: Delegated authority.

Mr. John Barritt: Now, Mr. Acting Speaker, I just want to say this. One of the things that I say, *It is just an edge of the wedge,* is because today I heard the Minister say, at one point when he talked about we are going to change the franchise and we are going to develop a degree of accountability and transparency, he also talked about bringing into the fragmented services which hinder the development of or the advancement of a fully integrated economy.

I do not see this Bill doing that. But clearly, that must be one of the goals of Government. And that is why I think we are entitled (at least I see it that way; obviously, Government disagrees) to see the bigger picture so we know how all this fits in. I get the impression that this legislation is a quick-and-dirty to get done before the end of the session. And I do not know what Faustian deal has been made in order for it to go through.

And it is a start, I am told. It is a start. But, you know, when you bear in mind . . . I believe what Honourable Ministers have to say in this House when they come here with Ministerial Statements. And I go back to what one Minister, who was initially responsible for this, had to say on June the 26th, 2009, when he announced that there was going to be this study (to which I could not get Parliamentary answers). He said then that the Request for Proposal is going out. And I quote: "People are invited to submit proposals for the oversight, management and implementation of the integration of the municipalities of Bermuda into the Government of Bermuda within one year."

Has that been changed? Is that still the agenda? Why should we not read that as still being the agenda? I have not heard anything here today to persuade me otherwise. And when on the face of it you are taking away the ability of the Corporation to earn 30 per cent of their revenue, and even then their power to charge rates for the use of their docks, their property, I have to ask, Mr. Acting Speaker, *Is that the overall plan? Is that part of the overall plan?*

And I think, not just the Opposition, but the people of the country are entitled to know what the plan is. I mean, there are some serious issues here with the Corporations, in terms of what role they are to play, in terms of security of the docks, the coming in of goods, the development of the Hamilton waterfront. Those are economic issues, but there are some serious issues that ought to be debated. And it ought to be debated in the wider context, rather than doing this thing in slices.

But I will tell you what I do understand. And this goes to the point about authority. That in doing this, the impression I have is that Government is looking for some leverage, creating some leverage so they can go back to the table and have the Corporations dance to their tune. That is what it is all about. That is what it is all about. And why do they not say that?

Hon. Derrick V. Burgess, Sr.: You said it for them.

Mr. John Barritt: Well, I cannot speak for you, Mr. Burgess, and your Cabinet! I do not sit there. I know there are leaks in your Party, but I am not being told that.

[Laughter]

Mr. John Barritt: I am just surmising.

The Acting Speaker: There are leaks in all parties, as you know.

[Inaudible interjections]

An Hon. Member: That is a fair shot.

Mr. John Barritt: I beg your pardon, Mr. Speaker.

Well, I am grateful for the information. I am grateful not for the leaks, but for the information I learned, Mr. Acting Speaker, because it gives me an insight as to what may be coming down the pike. And as I say that even in their own ranks there are concerns.

An Hon. Member: Do not worry about our ranks. Do not worry about our ranks.

Mr. John Barritt: I am not worried about your ranks! Lord knows I have enough problems of my own. And I have been there and done that. I know what it is like. But I am grateful for the development, though, because I think it is progressing politics in this country further, Mr. Acting Speaker.

[Inaudible interjections]

[Gavel]

The Acting Speaker: I cannot hear the Member speaking.

Mr. John Barritt: Thank you. Thank you, Mr. Acting Speaker.

And so it is like when the Honourable Ministers stood up, said they had consulted with a wide variety of stakeholders. I do not know who those stakeholders are. I am hearing the otherwise debated in the floor of the House. The Minister referred to jurisdictions where they looked and studied at municipal

I would like to have seen that, too, Mr. Acting Speaker, so I could be persuaded. I am not so fortunate as to sit, as you are, in the Progressive Labour Party Caucus. I do not know what is coming out of the pipe.

And this is why we say—

The Acting Speaker: You could join.

Mr. John Barritt: This is why we say, Mr. Acting Speaker, this is why we feel it is being rushed and there is being muscle applied here, and that really, you know, it is not just the legislators that are being shut out; it is the public. The public ought to be able to weigh in on this because they are the ones who really use Hamilton the most, and obviously, not St. George's as much. They ought to be let in on the debate. They ought to know, honestly and fairly and openly, what is planned, what the issues are, what the options are. But they are not. They are shut out completely. I know people were trying to get copies of the Act and could not get them early this week.

An Hon. Member: But did they eventually get them?

Mr. John Barritt: Maybe they did eventually get them. I did what I could to give them copies. But that is no way to run a country, Mr. Acting Speaker, and on a major issue like this.

[Inaudible interjection]

Mr. John Barritt: Wonder where I was? Well, that I cannot make the topic of debate here. But I could tell you a few things, providing I am not . . . but take this one. Take this one.

When it came to reform of telecommunications, I took a lot of shtick from your Party in opening it up, and they are riding on that bandwagon now. And they are riding on that bandwagon now. But they were giving me shtick. That is politics. But what I did at that time, Mr. Acting Speaker, is I pushed for reform of the system because I said, you know, we are not getting things done at the speed that they need to be done to keep apace with what is required to be done for Bermuda.

[Inaudible interjection]

Mr. John Barritt: No, I wanted to move things along a lot faster than the Dickensian or glacial pace that Government can sometimes move at. And I hired—

[Inaudible interjections and general uproar]

[Gavel]

Mr. John Barritt: I hired outside consultants to actually draft legislation, which in that day was unheard of.

The Acting Speaker: Cannot hear the Member.

Mr. John Barritt: It was heresy. You remember that, do you not, Mr. Acting Speaker?

The Acting Speaker: Yes, I do.

Mr. John Barritt: You remember the shtick and the grief I took when I went out on a limb. And I shared it with Members of the Opposition. I did Green Papers. And they stopped it.

I have one minute? Is that . . . two minutes? All right.

I have made my point. They invited me to go down that road. They were trying to suggest that somehow I am a newfound convert to improving things. But if nothing else, I have been pretty consistent and steady on this line. You can call me all the names you like. But I am consistent on this particular line.

And let me close with this, Mr. Acting Speaker.

[Inaudible interjections]

Mr. John Barritt: No, I am not going to be voting for the Bill. You are not going to muscle Hillary's boy like that, Mr. Acting Speaker. You are not! I do not see myself fulfilling my duties as a . . . now, the Members might come forward with some good amendments, and I am going to hear them tonight, might well get my support, Mr. Acting Speaker. I have not had the time to do that. You have heard me explain that already.

And that is a pity, because I think sometimes I am pretty good at it (and maybe in a private moment some of the Members of Government would admit that, too), in spotting errors and cleaning things up. They did one in the Senate this week.

Now, before I sit down and use up all my time, Mr. Acting Speaker, let me just say that the Members opposite have talked about, *Well, we will deal with this in time. We will have time to deal with it.* I looked at this Bill, and I said, *Well, what is the rush? If it is not meant to be effective April 1, 2011, why?* For whose benefit, for whose glory is this being done? The people of Bermuda? The people of Bermuda? Have not convinced me of that, Mr. Acting Speaker, not when you shut them out of the process.

Thank you.

The Acting Speaker: Thank you, Member.

The Chair recognises the Honourable Member, Walter Roban, from Pembroke East.

Minister, you have the floor.

Hon. Walter H. Roban: Thank you, Mr. Acting Speaker.

I think, Mr. Acting Speaker, this is one of the clear issues where you see the very clear, philosophical and principled lines of where the PLP and the United Bermuda Party are very different. It is very clear with this Bill. And perhaps there is often a rare time where you can clearly see this, Mr. Acting Speaker, where there is a clear line of difference between who is on this side and who is on that side.

The PLP's pursuit of reform in this area is not a new conversion. It is not a new idea. It is not two years old. It has existed from the inception of the Bermuda Progressive Labour Party's existence. And that is clear. "This is what we have been waiting for," if I can quote a leader who was recently elected in the last two years; "This is what we have been waiting for." This is transformation. And perhaps we have done it numerous times in other areas, but this type of transformation will be a rare opportunity for this Government to do; and for perhaps any government, because we know that the previous government to us were not successful, if they were even trying. And that has been articulated here today pretty well.

But this is what the Progressive Labour Party is all about. This is what Mose Allen talked about. This is what Dame Lois articulated; certainly, L. Frederick Wade. For me and my experience as a PLP member, it is crystallised from my own interactions with him. And I can tell you, much talk about Freddie Wade from certain people around here as to what he believed or what he represented. But I can tell you that for me, this issue goes back long before I came to this legislature. It goes back to becoming, as a very new member of the PLP in my interactions with our late leader L. Frederick Wade, and his own passion and conviction around what was wrong with the Corporation of Hamilton and the municipalities.

He asked me, as a young, impressionable, keen member, to go and do research for him on the Municipalities Act. This was like 20 years ago, when I had just come back and I had just finished university and filled with keenness about getting involved in some way. He himself was concerned about the inequity. He was concerned about the injustice, and the practices that seemingly, as was articulated by the Honourable Member, Mr. Furbert, Walter Robinson in 1974, about the lack of attention to the common people or to the working people, how whatever changes just totally ignored them.

He was interested in that. And that has been the interest of our Party since its inception. So this road that we have taken with the Municipalities Reform Act of 2010 is a journey of purpose for us. This is a journey we had to take because it is built into the very concept of why the PLP exists. And to me, at least from my understanding, I do not find it to even be a racial issue as much as it is an issue of the pursuit of democracy, the pursuit of equity, the pursuit of fairness for our citizens.

And I must congratulate the Minister responsible for this, Mr. Zane De Silva, the Honourable Member, because he took on the responsibility after I had it and carried the ball through the process to bring us to where we are. He did a lot of the real hard work on this, along with the team that was working behind us to help us conceptualise our ideas that would become this legislation. So I take my hat off to him for bringing it to this point. I can tell you, on this particular issue as I was given it in June of last year by the Honourable Premier Dr. Ewart F. Brown, I went on a particular direction.

And I want to speak about a few things, Mr. Acting Speaker, because there has been a lot of information put out about what was not done or whether

there was consultation or not or who we spoke to or who we did not speak to.

It is unfortunate that the constant, inundating campaign by the Corporation, which has been filled with some very unfortunate things, very unfortunate . . . and I would just briefly touch on some of the experiences of today. I shudder to think that the persons who committed the unfortunate acts that we have been told about were people that the Corporation wanted to represent their face. Perhaps it was unintended. But sadly, it happened, and it is unfortunate. But I move on, and I am hoping, as other Members have expressed, we as a country can move on because it is not the first time we have had such abhorrent behaviour on the Government grounds.

Something happened a year ago that was similar, unfortunately, to the Honourable Member, which was unfortunate, too. And I heard some of the same Members get up in this House and call it what it was—ugly, terrible, and all these things. Well, I just hope that we can have none of these sorts of things in the future. That is all I am going to say on that because I do not think any member of our citizenry should have to experience that.

But let us look at how this part of this started. I entered into a process where, once given these responsibilities as the Minister at the time, that I would be open and transparent and consistent with my Government's objectives around the reform of the municipalities. And that started, Mr. Acting Speaker, with meetings. I decided, along with the assistance of the able team at the Central Policy Unit, to . . . we were going to go out and talk to those persons out there who have something to do with the city, those municipalities.

Let me tell you honestly, Mr. Acting Speaker, what did I know about the Corporation? I do declare my interest. My family does own property within the Corporation's boundaries. And I spent time as a young person in the Corporation, living. But what do I know about the running and the affairs of the Corporation? What do I know? I am a Minister, but what do I know? That was a question I asked myself.

So I went about working for a process where I would begin to understand, before we began the process of what we needed to do, what we had planned to do. And guess who was the first persons on my list who were invited, Mr. Acting Speaker? Those meetings started in August. It was the new Mayor of Hamilton. He was invited to come and see the Minister face to face, so I could articulate to him and his team, if they wished, the process that the Government wished to enter into this effort at reform, which we articulated clearly in our Throne Speech of 2008. Very clearly to me, and thankfully, this Bill represents that in every sense of the word.

So, the Mayor came. I explained to him, *Mr. Mayor, and Mr. Benevides* (who is the Secretary), *you are aware of the announcement of the Government's effort to reform. I just want you to understand how we would like to go about this process. And any questions you might have about what we are doing, I am happy to entertain them. And in addition, if there is at any time from here on, if you wish to raise a question of myself and the team . . . no problem.* That was done.

Not only that, Mr. Acting Speaker, we had in front of us, clearly (and if I can just hold it up), their proposal for reform. We had it, of course, because they had delivered to the Government in '08. And what we had done, because the team I worked with was excellent . . . And that team have served the Honourable Zane De Silva very well. I know that, because of what we have been able to do. We had already done an exhaustive review of their proposal. And I brought this back to the table to the Mayor.

I said, *Mr. Mayor, we are aware that you are new to your office, and perhaps you have not become quite appraised of the documents that had been submitted back in '08.* And frankly, I think the perception of us who were there for the Government is that Mr. Mayor did not have a clue of what was in the document, did not understand it, did not really know it.

And this is what we did, because we felt this was fair: We said, *Mr. Mayor, take it back. Look it over. And if there are any other considerations you might have around the draft proposal that you put to the Government, please send it to us, because we want to be able to have a line of communication on this. We want to be able to know that we have the clear position of the Corporations and municipalities on your proposal.*

So that was done. The meeting seemed to go quite well. And so we went on from there. And I can tell you, Mr. Speaker, there are a number of groups that we met with. The Corporation of St. George's at that time, the now-Mayor was the Deputy Mayor. He came, and we met. We met with the head of Bank of Bermuda at the time, which is now HSBC; met with the Bank of Butterfield; we met with the Bermuda Industrial Union; we met with the Bermuda Hotel Association as the organisation that represents the hospitality industry, which has a great presence in the city, clearly.

The Employers Council, ABIC, ABIR, Uptown Market Association, the Small Business Development Corporation, Sir John Swan and other individuals who had a genuine interest in the affairs of the municipalities . . . We met with the St. George's Foundation. We met with anyone . . . In fact, there were individuals who had interest in the Corporation that were not just about the governance, but were about other issues that concerned the architecture, the environment. I do not want to put their names out because I believe they came to me in confidence.

[Hon. Stanley Lowe, Speaker, in the Chair]

The Speaker: Yes.

Hon. Walter H. Roban: So I will not divulge their names.

The Speaker: The organisation is fair enough.

Hon. Walter H. Roban: Yes. So I just wanted to be clear that there was a considerable amount of persons that I met to ensure that we did not want this discussion about the Corporation's future to be a media back-and-forth exercise that would be taken by certain media interests and changed to something ugly and something that really would be divisive, if you want to talk about that. And we would have difficulty being able to clearly deal with the issues. And those persons would have been preconceived around what was really going to happen. And that is why this approach was happen. Talk to them face to face. Answer their questions.

An Hon. Member: You actually did this?

Hon. Walter H. Roban: Yes, I did, Honourable Member. This was done over a number of months, starting in August, right up until, I think, about November. Numerous, numerous people. So this was done by myself, as a Minister, not by functionaries—myself. I thought it was that important that that approach be taken.

So, when there is this talk about *no consultation,* it is untrue. In fact, on the media, I quoted something else. And it has been unfair for the Mayor and his media team to have suggested that there has not been. I feel very strongly, because they, frankly, have, you know, lied about our role in this and what we have tried to do, with the highest level of integrity and honesty and openness. Because, certainly, all those groups could have talked to each other and said, *Did you meet with the Minister? What did he tell you?* You know, it was an open process! And that is why even individuals could come and talk to us.

I had people come, as I said, who were concerned about the very design of the city, that there were spaces that people could function and exist and have other than just a commercial experience in the city. You know, I had quite a diverse amount of people, which to me helped me to learn something, Mr. Speaker, that this was not just about the legislation. That what we were doing was about the very existence, the very future, the very ability of the city to exist. That our changes must matter for more than just a change of a few statute lines.

It had to be more, because the people who came to me, most of them expressed not total satisfaction with how the city treated them. Let us just forget what the history is around that, because what can be argued, Mr. Speaker, is that, as this Act is from 1923, it represents a certain concept of governance.

Now, let us just picture Bermuda in 1923, if we can. It was a place where you did not have a central government as we have today, with the sort of reach and breadth of influence, perhaps even the resources, to do certain things. So it made sense to create these entities, to actually formulate them in the way that they did, because the central Government did not have the means to provide that level of governance and the attention to the specific needs of cities or towns.

So it made sense at the time. And, frankly, the government structure was consistent with what was acceptable at the time—undemocratic, in the hands of a few, very little accountability, and certainly not sensitive necessarily to the needs of all who should be considered within those areas. They were basically to carry out certain functions. But as has been already articulated, the same people who were in this Chamber were running that Chamber, and also the Chamber in St. George's.

So, there you have it. But that is no longer acceptable. It is no longer consistent with what is best for modern practice. It is no longer something that I think, frankly, we can be proud of. It is essential that we as a Government, coming from the experience that we have had of pushing to reform this country from being (I can use the word) oligarchal to a country that is more open and more fair for all of its citizens.

It is because of that I have listened carefully . . . and I do not want to go over too much ground that has already been covered. But, having listened to some of what I consider to be the opposing views around what we propose in the legislation, which fundamentally covers three or four very key things. It is not, you know, going in other areas that people were afraid that we would go into.

You know, democracy is democracy. When I hear the arguments, frankly, from both the United Bermuda Party and the BDA about some preservation, even if a bit of what is the landed attached vote and the commercial vote, that disturbs me. That greatly disturbs me. Well, it disturbs me, for one, because as a PLP Member who faithfully believes in the aspirations and the philosophy of my Party, even the preservation of such a franchise is abhorrent. It makes my stomach feel very weak and very unpleasant because it is totally the antithesis of what is considered to be true democracy. Even any preservation of that sort of inequity, to me, does not embrace true democracy.

It is my view, certainly—and I believe the Bill that we have put forth reflects this—that any preservation of that really is violating that whole tradition. And there is one way that I have been able to even reaffirm to myself that what the Corporation presented to the Government, we certainly could review, we could look at, and we could debate, but we could not consider it.

It was easy, Mr. Speaker, to take them both and put them up, because I have had both of these documents for a long time, so I could really study them. Certainly, this one, and then when I got this one available to me, and certainly I would have had some knowledge of it before it gets to this House. I could look at them and go through both proposals, and to see where the Corporations are going with what they are proposing and what we are doing.

When I go through . . . there are a lot of changes, you know, names to counsellor and Mayor—you know, a lot of different, little things. Aldermen to counsellor . . . I mean, they had all types of little things that they were . . . senior counsellor and they had all these changes they wanted, frankly, to me, were a bit cosmetic. But the thing that really was a problem for me and where I could frankly just put that away and I just could not consider it was this issue of the retaining of that commercial component of the franchise, because you cannot be arguing for real reform or real change in the tradition that the PLP has established for this country, going back to what we called for in '63–68, at the '79 Constitutional Conference, the things we pushed for, all through, right up until '98, right up through to the changes that came about in 2002–2003, and accept what they put in here.

When I saw that they wanted to retain that, I said, *I am sorry. No. Cannot.* Because that, to me, is where it is. Just like with the democratic process and voting, the voter, to me, is like the zero in the code of computer. It starts with that. That is what the voter is. And then you can create all kinds of things from that. The voter is the very essence of democracy. Once you empower the voter you have begun the real process of change. And once you give them the right as the supreme right that they have to realise governance in a country or in a jurisdiction, that is where you are being true.

If you somehow try and muddy that with other types of diverse interests, it is soiled. It is destroyed. And this is, I am sure, some of what I am hearing from this side, Mr. Speaker, is what was talked about in the '60s, retaining of the plus-vote, the plus-vote, which was retained. (Sorry for pointing. Sorry for pointing if that is un-parliamentary.)

But, no. I am sorry. You know, I was not there in the '60s, but having listened to those who were, I am hearing the same stuff. *Keep the corporate vote because, you know, they pay the taxes.* While the landowners and property people of Bermuda, I am sure, up until 1963 and 1968, they paid most of the taxes, too, and the people who owned property. But clearly, it was philosophically wrong to allow them to keep their advantage in the voting process.

Frankly, Mr. Speaker, there is something very important about justice here as well, because justice delayed is justice denied. Eighty-seven years of injustice—perhaps at one time it was considered acceptable, but from the modern context, the allowance of the propertied persons to have such a multiple advantage over people who do not have as much means as them is just wrong. There is nobody who can argue for retaining that. And retaining of the corporate component in what I believe is being suggested by the other side in both camps in some measure—to me, no. Uncompromisingly no, Mr. Speaker.

We would have betrayed that tradition of pushing Bermuda truly towards a direction of change. And that should have happened in '68, frankly, in the Corporations. I do believe that the change of the vestry system was a representative of that as well. Moving us to having a total vision of universal suffrage across the board is what is right. And we must transfer that same model to the people who live within the Corporation boundaries. It is essential. And it must happen in this Act. The Municipalities Reform Act of 2010 will do it.

In addition, because of what I learned, Mr. Speaker, what I learned is that the Corporation has not been administered as well as we may think, frankly. And that is also something that I gleaned from the many submissions that I had an opportunity to listen to and read. It has not been run that well. Fine, there is the appearance and certainly reporting of financial wherewithal and good books. But frankly, how do we know that is the truth? They are not required to give the same level of financial scrutiny that the central Government has.

The last statements that I saw for the Corporation looked more like my grocery list than actually a real financial statement. And at the time, there were no assets attached. There were a number of things that were missing, from what I have become accustomed to seeing when it comes to real financial reporting for a Government authority or a governmental authority. They have not been bound by that in the same way that the central Government, or the openness, or that.

Now, fine. The past 18 months or so have been interesting for the Corporations, particularly Hamilton, because St. George's is certainly in a different place and will certainly be addressed differently by this Government subsequent to this Act passing, because their situation is different from Hamilton. That is understood, and even I understood that when I had responsibility for this issue. So you had to deal with them differently.

But I can tell you, Mr. Speaker, that the people who came to us wanted change. They felt strongly about a couple of different things. One, when it came to Front Street (and I am going to be quite frank), they all felt that Front Street was on life support. That whatever it was in years gone by as a commercial hub, a commercial centre for our country and our whole tapestry, was gone. And that, because of the lack of vision, the lack of initiative by city fathers or mothers or whoever you want to call them, had contributed to that, whether it be ideas of pedestrianisa-

tion, whether it be ideas of following some sort of plan, the 2001 plan or whatever.

There is one thing that I have yet to hear from those who represent the Corporation. How well have they followed these plans that they have set out for the actual management of the Corporation? How well have they followed them? There was a concern by some that the city of Hamilton, in particular, has turned into nothing but a steel and glass fixture—no character, no life, no content that keeps it alive. And the Honourable Member, Mr. Richards, alluded to it.

The Speaker: Minister, you have two minutes.

Hon. Walter H. Roban: Fine. I am going to come to an end very soon.

[Laughter]

Hon. Walter H. Roban: But I think it is important to make this point, that many of the people who came to us felt that the city . . . that it was not just about the legislation; that a new model had to be proposed for the city that would allow life to be brought to it. Some of the old, decrepit buildings that still plague the city landscape, somebody needed to deal with getting them out, create some open spaces, green spaces in the city that would allow people to live and function better. That the parks we had were fine, but more could be done.

And I must say, I did have a chance to view, from a heightened area, what the city was. And I could see that there is a lot of ugliness when you look down. That many people felt, because of the control, particularly in Hamilton, of the whole workings of the city, that much pushing could not be done. And this, to me, has been crystallised by the issue of hotel development. We have seen Ritz Carlton, St. Regis, a number of people trying to bring a hospitality hub back to Hamilton in a way that is new, a new generation of hospitality in the city. And it seems as if a big announcement . . . then it disappears, with no one knowing what has happened.

These are some of the obstacles that the people who came to see us said that they are frustrated in their efforts to give the city life. The inequities with North Hamilton . . . I firmly believe that what we are proposing, by flipping the need for representation and the fact that persons who want to seriously run for the city are going to have to go to North Hamilton and lobby those people who have been denied their economic rights, opportunity for investment, and genuine being a part of the city's wealth. And the city's largesse will then . . . the persons who want to run have to go to them now and talk to them in the same way. In '68, it was flipped again.

And, Mr. Speaker—

The Speaker: Time is up.

Hon. Walter H. Roban: This Bill must be supported for some of those reasons. Thank you very much.

The Speaker: Time is up.

Any further speakers?

I now recognise the Honourable Member, Mrs. L. Jackson, Pembroke South West.

Mrs. Jackson, you have the floor.

Mrs. Louise A. Jackson: Thank you, Mr. Speaker.

I stand here today to present to you a petition from 5,000 citizens of this country. This petition is to help save Bermuda's city. And I am going to read what it is:

"We, the undersigned [5,000 of our Bermudians] join together to urge our Members of Parliament and Senators to stop Cabinet's attempt to dismantle the Corporation of Hamilton. We want Government and the Corporation of Hamilton to work together to enact real, meaningful reform in our city. We demand transparency and openness from Government. A Government takeover of the city of Hamilton is risky and it is wrong."

This petition, I repeat by 5,000 of our citizens, speaks to their desire to stop this takeover. And I am standing here as a taxpayer for close to 50 years, over 50 years, having run—and I declare my interest, Mr. Speaker—of running a business in the city of Hamilton for at least 55 years, paying taxes there. I am about to be disenfranchised. I will not have a vote if this . . . I, along with many other businesses, businesspeople, including the businesspeople that the Honourable Member, Shawn Crockwell, talked about, who are back of town, who look like me, we are being disenfranchised and will not have a vote.

Now, I want to know how you can deny this when, on one hand, you have a portion of this legislation saying that only residents can vote. Then you have in there (and this is completely opposite; I do not understand where this is coming from), to be qualified to be nominated as the Mayor or an alderman or a common counsellor in Hamilton or St. George's, it is all right. You only have to be on the Parliamentary register. In other words, anybody can do that. But you cannot vote! It is the craziest thing I have ever heard of in my life.

But I am going to move on.

[Inaudible interjections]

Mrs. Louise A. Jackson: Well, I am saying, you cannot even vote for yourself. Thank you very much.

As I said, I have practically lived in Hamilton, running a business there for many years, moving from place to place, the Imperial Hotel at one time in one of Mr. Joel's businesses, and finally on Burnaby Street. I watched City Hall being built. In fact, the Jackson

School was the very first organisation to perform in City Hall Theatre.

This has been an institution, Mr. Speaker. They have preserved. They have been there, embraced the arts. In fact, I cannot say enough about what the Corporation of Hamilton has done to uplift on all levels the arts. As you know, I have been, or was Chairman of the Bermuda National Gallery. And this is one of the instances of an organisation that has been there, as you know, and lived and worked and certainly produced fabulous exhibitions, the education of children in the arts and all the rest of it. It has not just been all about business.

Now, I am going to leave that there to go on to say that another big, big disappointment, for me, and I am sure these 5,000 people who signed this petition, is that (and it has been said over and over and over again) we have paid as taxpayers $650,000—it is supposed to be $800,000—for a report that no one has—

[Inaudible interjections]

[Gavel]

The Speaker: The Honourable Member, Mrs. Jackson, has the floor. Please show some courtesy. Thank you.

Mrs. Jackson, carry on.

Mrs. Louise A. Jackson: Thank you, Mr. Speaker.

Is it that the report was so poor that you were embarrassed to show it? Or did it not—

[Inaudible interjection]

Mrs. Louise A. Jackson: Well, why can we not see it? Why can the public not see it? Why are we again being denied a report?

Now, I know this is a policy of this Government. I mean, we had the Health Council report, one report that showed how they were failing miserably as far as health care is concerned in this country. But why then would they not bring it here? Only one report—they put out at least six. We got them all in our seats, but we did not get that one. We did not get that one because it was critical of the health care in this country.

And I want to say that that is not the only report. But now, here we are again, Mr. Speaker. Why? Why cannot we see it. Is it some big secret? We have paid for it. We are supposed to stand up here as legislators and vote on something that we have not even seen? What kind of Government is this?

Dr. the Hon. Ewart Frederick Brown: Point of order. Point of order.

The Speaker: Point of order. The Premier has a point of order.

POINT OF ORDER
[Misleading]

Dr. the Hon. Ewart Frederick Brown: Mr. Speaker, I am enjoying listening to the Honourable Member, but the Honourable Member is misleading the House.

This Bill is not a vote on the report.

The Speaker: Carry on, Mrs. Jackson.

Mrs. Louise A. Jackson: Mr. Speaker, common sense tells you that if we as taxpayers . . . I certainly can tell you what I would have loved to have seen that $800,000 go on. And it certainly would not be a report that we cannot see, understand or know anything about. We have not seen, and yet we are supposed to stand up here and say, *Oh, yes. This is legislation that is proper. We have spent close to a million dollars on it, but oh, no, we cannot see it. Only certain people can see it.*

I am not going to even bother to continue on with this because I think everybody can see where that is going.

Now, I have watched the Corporation of Hamilton develop through the years, as I said before. I have been here from almost the beginning of it. And we have gone through everything. They are not perfect. I have had big rows with them. I can remember the time when we did not want women up there. We fought for that; we got women on the Corporation. They do reform. They change themselves. They would not even invite women to their cocktail parties. I as a taxpayer had to go to the Mayor and say, *Wait a minute! I am paying taxes, too. I have a business here. You will not even send me . . .* Well, that got changed. Now women are there.

I am trying to tell you. Am I going to hold this against them? What you do is to say, *You learned. You changed. You reformed.* So we go on from there.

An Hon. Member: And that is what we are doing.

Mrs. Louise A. Jackson: Now, all the reforms that they did do have not been mentioned. Nobody has talked about the fact that they recommended a proxy vote. I do not see any of that in this Act. That we do not even have nationally, right. They talked about absentee ballots, but nobody has mentioned that.

These are all things that they did. They did a raft of recommendations and amendments. It is your job, Mr. Premier, to take advice from—

[Inaudible interjections]

Mrs. Louise A. Jackson: Oh, yes. Again, we do not know what advice you got from your consultant.

[Inaudible interjection]

Mrs. Louise A. Jackson: Not the people of Bermuda to us. In other words, the people of Bermuda who are hearing my voice, the Premier saying that the $800,000 that you spent as taxpayers was advice ([$]650,[000] okay) . . . The advice of that consultancy was for him and his crowd, not for you people.

Dr. the Hon. Ewart Frederick Brown: Mr. Speaker, Mr. Speaker, point of order.

The Speaker: Point of order.
Mr. Premier?

POINT OF ORDER
[Unparliamentary language]

Dr. the Hon. Ewart Frederick Brown: Well, first of all, Mr. Speaker, I am disappointed that the Honourable Member refers to "*me and my crowd."* I do not think that is Parliamentary. That is the first thing.

The Speaker: I do uphold that, yes.
Carry on.

Dr. the Hon. Ewart Frederick Brown: Yes, thank you.

And the second thing, Mr. Speaker, is that she is misleading the House in two ways. One, by the amount that has been spent on the study.

The Speaker: She said [$]650[,000].

Dr. the Hon. Ewart Frederick Brown: Six [hundred] fifty. And the other one was that we are not sharing the information with the public. That is not true. That is not true.

The entire report has not been released to the public, and there are reasons for that. And this Bill, this Bill is a Bill that is based upon these issues that you see in the Bill. And that is all. And it is merely a beginning.

The Speaker: Yes. Thank you, Premier.

Mrs. Louise A. Jackson: Mr. Speaker, it is very plain to me and anybody else who has been following this that these consultants were not hired to talk about true voter reform, or anything about democracy in the first place, of those cities. They were hired to end, finish off, kill the city governments, period.

Now, if you can prove to me anything otherwise, you can—

[Inaudible interjections]

Mrs. Louise A. Jackson: Mr. Speaker, as long as the Premier and his Government refuse, again, to share the consultants' reports, as long as they refuse to have town meetings, these little private meetings that the Honourable Member, Walter Roban, talked about, with the banks and what-not . . . we are talking about open meetings for the people of this country. They did not have that.

They had town meetings for everything else. You had town meetings for gaming. Why could you not have town meetings for this? You had town meetings for FutureCare, not that that made any difference; it is still a disaster.

[Laughter]

Mrs. Louise A. Jackson: But you did not consult the people of this country. And 5,000 people have—

An Hon. Member: And 14,000 people signed the anti-independence one.

Mrs. Louise A. Jackson: We will now go on with other amendments that the Corporation has done. They have opened up their meetings, which is more than I can say for a lot of Government meetings. We have finally got around to opening up the Public Accounts Committee. There was a stab at opening up the education meetings; I think that has all fallen through. I do not think that happens anymore. Well, they had one when . . . it was open to the public. I guess you did not know anything about that.

[Inaudible interjections]

Mrs. Louise A. Jackson: Also, the Corporation wanted to do away with all of the various levels; that is, being a counsellor, an alderman. These are all things no one has mentioned. And of course, obviously, you have overlooked and we would not have known anything about what the consultants thought about it because we never heard anything or saw anything about it.

Which also amazes me, Mr. Speaker . . . they are getting ready to do PATI. They have been talking about PATI, which is supposed to be open, transparent. That is the next Bill coming?

The Speaker: It is the next matter coming up.

Mrs. Louise A. Jackson: In other words, in this hour, at 20 minutes to 8:00, is it? Nine? Whatever it is.

The Speaker: Eight.

Mrs. Louise A. Jackson: At this hour, Mr. Speaker, it is all right not to share documents and reports that we have paid for, but at 8:00 or 9:00 when we do PATI, it is going to be all right? That baffles me.

This Government is very, very peculiar.

I want to ask another question, too. I want to ask another question. Corporation of Hamilton owned these buildings that you want to levy land tax on. In fact, what you are doing is telling them to pay rent on property that they own.

An Hon. Member: No, no.

Mrs. Louise A. Jackson: Yes, it is. Yes, it is. Yes, it is.

An Hon. Member: Do you own your house?

Mrs. Louise A. Jackson: Indeed I do.

An Hon. Member: Do you pay land tax on it?

Mrs. Louise A. Jackson: No, I do not because I am a senior.

An Hon. Member: You do not because we set it up that way.

Mrs. Louise A. Jackson: And who pushed you into doing it?

An Hon. Member: Nobody.

[Inaudible interjections and general uproar]

Mrs. Louise A. Jackson: Yeah. Uh-huh. Hey.

[Gavel]

Mrs. Louise A. Jackson: Mr. Speaker, if we want to go to that, we will talk about it and I will not embarrass the Premier because he is a friend of mine. But let us talk about how he gave the seniors their driving licence fee that was free, and everybody was supposed to get excited. When all the smoke settled, it turned out to be $26 a year. Ha!

[Laughter]

Mrs. Louise A. Jackson: And so embarrassed was he that he gave us our free car licences. You forgot that. He cannot remember? Oh, I remember. Oh, yes. Oh, yes.

An Hon. Member: That is not true.

Mrs. Louise A. Jackson: Yes, it is true. Yes, it is.

[Inaudible interjection]

Mrs. Louise A. Jackson: Well, it all depends. Of course he was embarrassed, and of course he was ashamed.

Mr. Speaker, I have diverted. I am glad that you . . . I want to say this. And that is that, if there are 5,000 people who are not only concerned, many of them are worried about their jobs and everything else that has been spoken about today. And these people had the right of assembly. They had the right to march.

And I have to say this. Mr. Speaker, have you ever seen as many marches on a Labour Government as you have in the last 12 years? We have had marches—the civil servants, the teachers, the seniors, everybody, the police, everybody. And—

[Inaudible interjections and general uproar]

[Gavel]

The Speaker: All right. Some may find it entertaining, but we are not being courteous.

Carry on, Mrs. Jackson. I am trying to listen, but I am hearing a lot of . . . yes.

Let us try to keep it down. Thank you. Otherwise, I am going to put somebody out.

Carry on, Mrs. Jackson.

Mrs. Louise A. Jackson: Thank you, Mr. Speaker.

Seeing the Bermuda Public Service Union march up here today was quite a sight to see. Bravery, I think, a lot of those people were not going to be intimidated in any way. They marched up. They certainly had their say. I think the only thing that really trumped that for me was seeing the police come up here a couple of years ago. Well, I would say that it was equally (I should not say it trumped it), equally as heart-warming to see the police able to come up and demonstrate in this way.

I am going to end. Again, as I said, I have been . . . I am about to be disenfranchised, along with many other businesspeople in the city of Hamilton. And I want to stand here again to say that I have watched the Corporation grow and change. I watched, as I said, City Hall built. I watched how they handled that. I have watched how they have taken this city to all kinds of levels. It has been a joy to watch and a very distressing tragedy to see how they are trying to destroy it.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mrs. Jackson, the Honourable Member from Pembroke South West.

Are there any further speakers?

No further speakers?

I am waiting for the Minister.

[Inaudible interjections]

The Speaker: Do you yield to the . . . all right. Okay.

We are going to give the Honourable Member, Mr. D. Tucker—who should have been in his seat—an opportunity to make a speech.

Mr. Tucker, the Honourable Member from Hamilton South, has the floor.

Mr. Darius D. M. Tucker: Thank you, Mr. Speaker.

Mr. Speaker, I have listened here intently today to come up with some idea of what is in the best interest of Bermuda and the residents within the city limits and things of this nature here. And one of the things that I found out just by listening . . . it has been a very good history lesson of some of the things that have not happened, some of the things that have happened. And it is truly, truly interesting.

But I will say this here, Mr. Speaker, is that I went to a meeting that the Corporation of Hamilton did hold, and it was out Goody Smith's church out there, the New Testament Church of God. And I found it very interesting that they went to the north of Hamilton to hold a meeting on the proposed plans for Front Street. And it was interesting, and to update the residents of North Hamilton about what the proposal was for Front Street.

And just listening (and that is what I did do), they proposed to take $120 million and refurbish Front Street in order to make it more user friendly in terms of putting mega-cruise ships and things in there, put a garden area. All these things were very nice. And I did not have a problem with it. But I thought it was a bit odd because one of the residents that resides within city limits got up and said, *You are going to come in north of Hamilton and talk to us. You are going to put $120 million down there, and all we need is $10 million back here.* And then the room got quiet.

[Laughter]

Mr. Darius D. M. Tucker: And I was quite taken aback by that because of the fact that, you know, people pay their taxes. And I found out through having a meeting with the Mayor that 98 per cent of (if I have got it correct) the taxes that come in, percentage-wise, comes from the buildings, people that own buildings with the businesses and stuff. And why should they not have a majority of that portion of it to help the area, to refurbish it to do whatever, because that is the main business centre, and that helps to keep the control of the country going forth.

And I said, *Okay. But to some degree, you know, it has its merit. But also, you also have to look at, for those who have much, much is expected.* So in that regard, over a period of time . . . and it is not personally at this particular administration. Let me make this clear about this point, because it was information that was offered to me. Because from what I have heard from people that I have talked to, that this is probably the best administration that the Corporation has ever produced, in terms of people that have been elected and prepared to serve and to do the business of the town. That is what I have been told. And I do not know all of them that well, but I do know my share of them personally. And some of them actually watched me grow up.

So in that regard, I gave it that much respect. And from what I have been hearing, they have been trying to make some changes. But then, there was a young lady from the EEZ. And she gave a very nice speech on the plans that the EEZ had for North Hamilton, all these things. And she was able to outline what they were proposing and things of this nature here, and what they were doing. And they were acting as a crutch between the Corporation of Hamilton, the residents, and the Government of the day and their plan for those people in that particular area and how it has been known as an Economic Empowerment Zone area.

It was interesting to know that she was very detailed in her presentation. She had answers. But yet, the Corporation did not, I thought, in my honest opinion, have sufficient answers for the residents that did come to this particular meeting.

Now, there was one lady that spoke. I mean, she made a lot of noise. But I was informed by the Mayor, if I go see that lady today, her issues have been addressed. So that is a good thing.

But then also, just through conversation and listening and talking, is also when it came to a comment that the Honourable Member, Bob Richards, made about Government paying taxes on their buildings that they have, one of the things that I thought was very interesting, and a comment that was made is that the reason why the Government is not charged taxes on their buildings is because their buildings do not have an ARV [annual rental value] because they do not rent the buildings out. They use the buildings for the purpose of running the country.

So, out of the kindness of their heart, what is the sense of charging them taxes? Because of the fact that they do not rent the buildings out. So they are not collecting any money. They are not making any money out of this deal. But then, another comment came back, *So we just play, let us say, favourites, or bartering, as one would say. I give you this; you give me that. That is why we do not charge them taxes for collecting the Government's trash within the city limits. Right?*

So I said, *Okay. Well, you know, it sounds fair.* I am just listening, in conversation, see. And I thought that was interesting because it is a learning process of learning how some of these municipalities work and how this particular one here works. And I am certainly glad that this information and this Bill has come to the House, because it has been a learning process, I think, for a lot of people, all in all, of so many things that have happened.

Because as the Government has consultants, and they are paid to give the Government advice on

various, different things, and not always is that privy to the people until such a time, or if it becomes privy at all, because if it is a Cabinet document, then obviously, it stays tucked away underneath the desk, and that secret dies with you, as one would say. But also, is that the Corporation, over years, have also been secret in their dealings. And we honestly do not know what has happened inside those rooms. It is just of late that they have opened up their meetings to the public on various, different issues. But also, is there a meeting behind the meeting or a meeting before the meeting? So that when we come out, that these things are just openly discussed?

Because in here, when we have our meetings, I mean, you hear the haggling and the to and fro, so you can really see that, okay, there might have been a meeting before the meeting, but still, you can see the intent of what someone wants to say about how they may feel about a particular situation. So in that regard, I thought it was interesting.

I also thought it was interesting that it was brought to my attention about the piece of property that the Bank of Butterfield had engaged in an agreement with the Bermuda Government. The information that I have received is that that piece of property has not been purchased yet, and that the Corporation had made a proposal to purchase the property and to develop it. And then, at some point, it just fell by the wayside.

I said, *Okay. That is interesting.* I said, *Well, I will mention it* because at some point, I would like to hear what actually happened. Because I did not hear what actually happened from the information that I received. So I said, *Okay.*

[Inaudible interjection]

Mr. Darius D. M. Tucker: Well, that information did come from the Corporation of Hamilton.

[Inaudible interjection]

Mr. Darius D. M. Tucker: Yes. Right?

[Inaudible interjection]

Mr. Darius D. M. Tucker: Right. And then that is fair. And so that is why I am saying that, as a person, that if I get information, and I will tell you, I honestly asked—

[Inaudible interjection]

Mr. Darius D. M. Tucker: You went to the fire department?

[Inaudible interjection]

Mr. Darius D. M. Tucker: Yes. Well, I asked the Mayor about that, because this meeting was just me and the Mayor. There was no one else in the room, right? And on two occasions, somebody else wanted to come in, and the Mayor says, *No. Everything is fine.*

[Inaudible interjections]

Mr. Darius D. M. Tucker: Pardon me, Minister?

[Inaudible interjection]

Mr. Darius D. M. Tucker: I actually cannot hear you. You have to say it a little louder.

So in that regard is that, when it came to the fire department issue they also had discussed that, in return, they only charged the Government, I think it was one dollar a year for rent. But this year here, or last year, or something, they went into a negotiation process to raise the rent of that particular building.

An Hon. Member: Nine hundred thousand dollars a year, from one dollar.

Mr. Darius D. M. Tucker: Right. And this is what I was told.

And what I am saying is, that is a very big increase.

But then I go back to the argument that . . . I am sure the Bermuda Fire Service is not in the business of making money. So why would you want to charge rent? Because they offer a service to the community. And the Bermuda Fire Service has expanded their services, that now we have EMTs and now we have people that are professionally trained that can be able to give needles and things of this nature here. So I am saying, why would we want to take $900,000 out of a fire department's budget?

And so like, that is what I am saying. So I am listening, and I am trying to balance this out because I have a decision to make. And I am saying, *Well, what is in the best interest of (1) the people of Bermuda that use the city; (2) the residents that do not have the right to vote; and then also when it came down to (3) the business vote?*

And told the Mayor, quite frankly—and he can read about it in the *Royal Gazette* when he chooses, or wherever—*I do not agree with the fact that someone can have 25 votes or 30 votes, and one person that lives here has one vote.* I said, *I cannot live with that.* And if we are going to talk about reform and things of that nature there, I said, *When we talk about reforming the election side of it and who can vote, that has to be done away with the first time. You cannot say, Well, just for this period of time, we are going to do that.* I do not agree with that. You know?

[Inaudible interjection]

Mr. Darius D. M. Tucker: Well, I did not get across on the campaign. In fact, I did not ask that question. But I would venture to say, they are probably into 100,000, easy.

[Inaudible interjections]

Mr. Darius D. M. Tucker: Sure! But, you know, okay. Well, you have got the inside information.

So, and I will get to the campaign. But I also, my query was about the docks. Now, I found out that when it comes to the docks, that that was all reclaimed land over a period of time, and that the Corporation of Hamilton can reclaim land for the harbour, from what I was told, all the way over to Harbour Road, as long as they get permission from . . . as long as the Government of the day is in agreement and the Governor gives his assent to it they can reclaim this land all the way out to there.

So I said, *Well, that is pretty interesting,* because what I am saying is that . . . so it is the Queen's Bottom. And it was a learning process. And I am saying, *Okay. Now I can see why they could do what they want with the waterfront, because I am sure that the Government of the day would not oppose the waterfront plan, and they would get the assent from His Excellency*, because His Excellency, in my honest opinion, is not in a position to stop the country from moving forward, because he is here for internal security and external security. So I thought that was interesting.

Now, when it came to the docks and the levying of these fees, the Bermuda Customs collects the money. They hold it for three months, from what I was made to understand, and then they give it, a percentage, back to the Corporation. And then I said, *Well, who pays for the administration of it?* Well, the people of Bermuda pay for the administration of it because somebody has got to handle the money. Somebody has got to do the paperwork, and things of that nature, because you are now bringing in two entities, because Customs will collect it. Even those who are from the same Ministry, they have now got to hand it over to the Accountant General. The Accountant General puts it into the account. And then, somebody disperses a check.

And in the learning process, Stevedoring Services operate the docks. They rent the property from the Corporation of Hamilton. They hire security guards. But if there was any incident, the security of the docks would be controlled under the Marine and Ports Act. So that would mean that that would then involve the Bermuda Police Service to do anything that has to happen on that particular dock.

And I mean, in some parts of the world, if you ever take a cruise, is that there are boats that will meet you out at a certain point that have guns on them and they are all ready, and they escort the cruise ships in. But we have not gotten that far. But at some point, that may become a part of the detail. And once again, that would be a cost that would have to be incurred by this Government or any other Government that is elected on the day.

Then the question I asked was about the new scanning machine, because of the fact that it is something that I personally brought up in the floor of the House, about—

[Inaudible interjection]

Mr. Darius D. M. Tucker: No.

I asked him, *Could I speak about these things? Because if I could not speak about them, then it is useless me having a meeting with you. Because I am in a learning process.*

I need to know, Mr. Speaker.

[Inaudible interjections]

[Gavel]

The Speaker: Do not leave me out, please.

Mr. Darius D. M. Tucker: Mr. Speaker, you know I would never leave you. You watch me vote, Mr. Speaker. You know?

[Laughter and general uproar]

Mr. Darius D. M. Tucker: But, Mr. Speaker, what was interesting is that when it came to the scanner, Customs is going to be responsible for supplying the piece of equipment, yes, funding the piece of equipment. And then also there is, roughly, going to be some money that is going to be put into operating this building and things of that nature, and any other security details as we go along with that.

So that is interesting, because somebody has got to come up with . . . I will venture. I think the piece of the equipment is about $2 million. And then I think, well, by the time you put a building there, that is probably going to be close to a million, and things of that nature there. So somebody has got to find $3 million. And I do not know where they are going to find it, but it has to happen. And it is going to come from somewhere.

So, these things are very interesting. And then, that is leaving out the road changes that are going to be made, because there are going to be road changes, when it comes to the swinging of containers and docks and things of that nature there. So just within that aspect, I thought it was interesting.

Now, we have also heard a lot that the Government of the day has not been communicating on, let us say, good footing with the Corporation of Hamilton on various, different issues. But I heard the Honourable Minister Mr. Walter Roban speak about these

various, different entities that he had come in, and things of that nature there. And I did not hear anybody rebut anything that the Minister had said. So whether or not the conversations were a half-hour or short or what happened after that, or there was any more . . . because you can only go by what you read in the newspapers, you know.

But one of the things—

[Inaudible interjections]

Mr. Darius D. M. Tucker: Well, I can tell you . . . well, I am not saying that . . . okay. Let me rephrase that. I can rephrase that. The press is not my favourite fan, either. I could tell you that. I know that for a fact with some of the things I say up here.

But I will say this here, Mr. Speaker, that what you read in the newspapers, one may have to tend to believe, because . . . and I can understand why the Government of the day chooses not to answer sometimes. But also, I feel that with the new regulations that are coming in the Media Council, we should have some better service in reporting of accuracies of what one may say.

Just because what one may say may not be the truth, but we would have some accuracy in what one may say. Well, what one may has said or may say, you know? And so I thought that was very, very interesting, Mr. Speaker.

The other thing that I thought was interesting is when it came to the service that the Corporation of Hamilton provides when it comes to its sewage plant. You know, I had known just through a personal friend that they tied Berkeley into it. But I did not think it went up as far as South Hampton, Princess, and the hospital is tied to it. And Future Plans, they can still handle that capacity, and it goes up as far as CedarBridge. I said, *Oh, okay. That is information. That is pretty cool.* And I said, *Ah.*

[Inaudible interjection]

Mr. Darius D. M. Tucker: Yes. You know what I mean? Because it is information. I said, *Oh, okay.* And I guess it was probably a gesture to let you know that they do more than just take care of the city limits. Like you know, *We do offer to support other entities outside of the city limits and help the national interests of the country.*

An Hon. Member: And fair exchange.

Mr. Darius D. M. Tucker: Or fair exchange for rugby, I hope. You know, I do not know because I do not sit in Cabinet. So I would not know. But fair exchange, no rugby.

But I will say this here, is what I have also found interesting is when the Honourable Member, Wayne Furbert, spoke, Mr. Speaker, about various, different things that have happened over the years with the Corporation of Hamilton and the Government of the day, and I had never, ever heard that there was a rift before, you know, in my life.

[Inaudible interjection]

Mr. Darius D. M. Tucker: And I can do that, you know. I most certainly can, without a doubt.

[Laughter]

Mr. Darius D. M. Tucker: But it is interesting, though, Mr. Speaker, that when he spoke it, no one came back with a great consequence. So, you know, you have to be careful about some of the things that you hear. But when you hear it and someone speaks it publicly, and very few people come back because in this day and age of technology if anything that he said was untrue, someone would have got up on a point and said he is misleading the House, or they would have even emailed or texted or BB'd.

So that was very, very, very, very interesting, Mr. Speaker. But one of the things that I do say is that . . . and my former colleagues would notice from when I used to sit in caucus, I would always tell them, *Speak the truth, and we can work out everything ourselves from there.* And I used to say it regularly when we would go Monday and we were dealing with certain situations.

So, over time, I think they got to understand that. And one of the things that I found out is just in reading the newspaper, when you read things like what was . . . and I have not looked at today's papers. But when I say this here, when this Honourable Member had shown this to me this morning, I said, *Man. This is crazy!* As a layman and an elected official, I am saying, *This is crazy! How could this possibly happen?*

[Inaudible interjection]

Mr. Darius D. M. Tucker: Well, it basically says . . . Mr. Speaker, if you will allow me, it just says, "Cancelled: These are some of the things that a rush takeover Bill puts in jeopardy."

And it says, "Bermuda Day; Harbour Nights; all Christmas activities, including entertainment, lights, and trees; Queen's Birthday Parade; all parades that take place in the city of Hamilton; Cultural Fest; Summer Sundays in the Park; Four Seasons City Festivals; pedestrianisation; the city's Scavenger Hunt; Bull's Head Winter Shuttle; Dondello [PHONETIC] and Court Street restoration project; New Year's Eve activities." And I think this is the first time they had New Year's Eve's activities, because St. George's had a shortfall and they found some sponsors.

So I am saying, *All right. Okay.* And then it goes on to say, "CCTV security camera system, secu-

rity X-ray machines on the docks." And I am saying, *Hold on now. The Government is going to"—*

[Inaudible interjection]

The Speaker: Thank you.

Carry on, Mr. Tucker.

Mr. Darius D. M. Tucker: You are not going to say "sorry" to me, Mr. Speaker?

[Laughter]

Mr. Darius D. M. Tucker: Oh, my dear. But I was looking at the Speaker. I was being obedient. They came in and broke my line of speech, which hurt my feelings.

The Speaker: Carry on.

Mr. Darius D. M. Tucker: But, Mr. Speaker, what I am saying is that personally knowing that security X-ray machine at the docks . . . I know for a fact that that came out of the tender in the *Bermuda Sun*, because I even tried to get a tender, but that Chinese company will not speak to me.

[Laughter]

Mr. Darius D. M. Tucker: But I was trying to get a price.

[Inaudible interjections]

Mr. Darius D. M. Tucker: So then it says, "emergency street resurfacing only, waste management projects, underground cabling, al fresco waterfront dining, wireless city, waterfront development, and traffic lights upgrades." And I am saying, *Okay. Whew. That is a lot. That is a lot.*

But what I am saying is if we are going to, hypothetically . . . if the Corporation of Hamilton is not going to get their $7 million or $8 million that is going to be taken from them, and none of these things are going to happen, I am saying that is interesting because some of these things are actually sponsored by private companies, you know?

Right?

Right. And the Department of—

[Inaudible interjection]

Mr. Darius D. M. Tucker: And that is true, by the Ministry of Social Rehabilitation, they do sponsor and put on Bermuda Day.

What I am saying is that . . . now the Corporation of Hamilton, I am sure, within their budget . . . and I do know if the Ministry helps to sponsor the overtime and the clean-up of the city afterwards. But I can tell you, one thing is, that giving out trash bags has made a big difference because there is not that much to clean up. Because Bermudians are very respectful people of their territory? Right? And that is true.

So, I would say this here, if we are going to have an issue and we are going to talk about it, we need to be honest and tell the truth. And one of the things that I have a problem with, and I told the Mayor, is with that ad campaign. I did not feel it was the truth with some of the things that were said. And you cannot take little, small things, one line, and expand it to a half-a-page and make it into a story. That is unfair to people that have to look at things objectively. And it is unfair for people that may have no idea of the inner workings of the Corporation of Hamilton, or even what we do up here as legislators.

And so when you would get a call from a constituent asking you to support the city, and it is a constituent that you communicate with quite a bit, you know . . . it is not like, *Oh, it is time for you to act.* And we talk. We even text each other.

[Inaudible interjection]

Mr. Darius D. M. Tucker: Well, yes, we do have a few, you know. But I would say this here, that is when you get interested in really what is going on, because obviously, they have their agenda. And, as an elected official . . . you know, you want to hear from your constituents. But with that particular constituent, he is a very honest person, very, very honest person. And he made some phone calls on my behalf to get some doors open so that I can get some information, because before I was never invited to hear anything of that nature there.

So I would say this here, if we are going to tell the truth, then let us tell the truth. And let us deal with the truth, and let us deal with the facts. Because people that live in the city should have every right as much as people that own buildings in the city. That is a fact, and that is a reality. That is just the way the world has evolved over time. And it should boil down to one vote. We should not have multiple voting. That is unfair.

And, Mr. Speaker, on this particular day—

The Speaker: You have two minutes left.

Mr. Darius D. M. Tucker: Two minutes left?

The Speaker: Yes.

Mr. Darius D. M. Tucker: Okay. On this particular day as we debate this Bill, and as we will go into Committee shortly, I would hope that the people of Bermuda will just sit back and think about what has been said up here. And at some point they can even get a true and accurate transcript from this Honourable Chamber, as opposed to another source of information, so

that they would know what transpired up here today for the best interests of Bermuda.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Tucker, the Honourable Member from Hamilton South.

I do not believe there are any further speakers, because the Minister who is in charge yielded to the Honourable Member, Mr. Tucker.

I now recognise the Honourable Member, Mr. Z. De Silva.

Minister De Silva has the floor, and we are still debating the Municipalities Reform Act 2010.

Minister, you have the floor.

Hon. Zane J. S. De Silva: Thank you, Mr. Speaker.

Mr. Speaker, first of all I would like to start off by thanking all Members for participating in this debate today. I did not plan on speaking too long, and I will try to keep (as a lot of my colleagues say in this Honourable House) my comments brief. But I do think it is important to touch on a few points and to clarify some things.

Mr. Speaker, there have been a lot of questions today about the report that has not been made public yet. Mr. Speaker, just let me say, that report may contain sensitive information that the Corporation may not want to be public. That is number one. And, of course (and I think my honourable colleague, Minister Roban, told folks earlier) the interviewees were told that their comments would be confidential in order to get a true reflection of their thoughts about the municipalities.

Mr. Speaker, I thought it only right that I talk about the consultants for just a moment because, in particular, Members opposite had a lot to say about the fee that was paid for the consultants. These consultants, Mr. Speaker, as many may know (but for those who do not), were a combination of a very successful Bermuda firm, AS&W, with wide experience in commercial and public law. They have professionals with significant key relationships in Bermuda's private and public sector.

The overseas partners with our Bermudian consultants, MLA, are an international law firm with 475 attorneys and public policy advisors. They are recognised nationally as leaders in their industry, and specialising in the complex field of government reform.

Mr. Speaker, I think that we will find in due time, as this Bill passes, that that was money well spent.

And speaking of consultants, Mr. Speaker, and money spent . . . you know, I have not heard much talk about what the Corporation has spent on their media campaign. We have had advertisements almost daily, sometimes two times a day, full-page ads, maybe $2,000, $3,000, $4,000 per ad, Mr. Speaker. Radio announcements, advertisements in both the newspapers. And what about their lawyers, Mr. Speaker, their lawyers whom we have received letters from? What monies have been spent on their lawyers and their consultants? I will not throw in banners of the last week, Mr. Speaker, *the Brown–De Silva Takeover.*

Mr. Speaker, last week, the Corporation had a picture in the paper showing their new depot under construction. Guess who was in the picture? One of their consultants, a project manager, hired from outside of the Corporation.

Mr. Speaker, everyone uses consultants. And of course, the Corporation are no different than us.

Mr. Speaker, for those that may have missed my opening brief, I think it is important that I just highlight one or two things, if you can indulge. I mentioned this morning, this is the Bill. This is the take-over that takes over nothing. This Bill is the land grab that does not affect any land. Important, Mr. Speaker—everyone is talking about the land grab, that we are taking over. It takes over no land, this Bill.

Mr. Speaker, it is also important for those that may have been absent from the House, or maybe for some of our members of the public that did not have the benefit of hearing this morning a bit of history, and I think it is important to repeat that few lines of history.

In 1790, and under a Statute of that same year, 145 acres of land were purchased using public funds invested in the Government of Bermuda for the use of the new town of Hamilton. Let us not forget that important fact, Mr. Speaker, very important.

Mr. Speaker, there was talk . . . Members have been here all day. Yes, they have. And we are going to be here just a little longer, Mr. Speaker.

Mr. Speaker, we talked about the wharfage and the port dues. I am not going to go into that, except for this reminder: That when this comes into force—it is not until April of next year, 2011, April of next year. But . . . and the Honourable Member Mr. Pettingill just reminded us, a lot can happen in that time. And I am hoping a lot happens in that time, Mr. Speaker. As I have said before, my door is open. And once we finish with the audit, Mr. Speaker—which after tonight we have three months in which to get it underway—when that is done, Mr. Speaker, we will be on our way.

If this Bill does not represent compromise, Mr. Speaker, I do not know what does. We did not have to go this route. We could have been very short, sweet, cut to the chase. Nope. Mr. Speaker, I think it is a very good compromise. When you think that the amendments we are making to this Bill can actually elect the same people that represent the Corporation of Hamilton today, I think that is a very, very good compromise.

Mr. Speaker, the Government has listened very carefully, and we have had some suggested amendments. And even though we will not accept those amendments tonight, Mr. Speaker, we will seri-

ously take advisement on those. We will take them under serious advisement, and we will look forward to possible amendments in the next session.

Mr. Speaker, I would be remiss if I did not talk about some of the activities that I and my family experienced this afternoon when we broke for lunch. Mr. Speaker, we heard the word "divisiveness" used today. And I think that the Honourable Member, Mr. Barritt, mentioned "undercurrents," "racial undercurrents" when it comes to a particular Bill like this.

Mr. Speaker, I think when it comes to Bills like this, you will have racial undercurrents because there are racial undercurrents. But, you know, Mr. Speaker, I think—and I sincerely believe this—when you have advertisements like you did in 1998 regarding Deloy Robinson, and you have advertisements that incite and, I think, work on the emotions of the people of Bermuda like those that we have experienced in the last six months, I am not surprised that a certain segment of our community do not get riled up and emotional.

And I say *emotional beyond control* because, Mr. Speaker, you know, we get slammed for talking about the Big Conversation in this country. And we say that our leader, the Honourable Dr. Ewart Brown, is divisive. The Big Conversation is divisive. Well, Mr. Speaker, I can assure you that if we continue to have repeats of marches or gatherings, activities like we had last year on the Cabinet grounds, and this afternoon on these grounds, how are we ever going to heal our racial differences? How are we going to do it, Mr. Speaker?

On that note, I now move that the Bill be committed.

The Speaker: Thank you, Minister De Silva.

Any objection?

Agreed to.

Will the Honourable Member from Hamilton West (I was going to say South), Mr. W. Furbert, please take the Chair of Committee?

[Pause]

House in Committee at 8:18 pm

[Hon. Wayne L. Furbert, Chairman]

COMMITTEE ON BILL

MUNICIPAL REFORM ACT 2010

The Chairman: I call the Member in charge.

Hon. Zane J. S. De Silva: Mr. Chairman, I would like to move, with the indulgence of the House, clauses 1 through 12.

The Chairman: Any objections to moving clauses 1 through 12?

Would any Member like to speak to those clauses?

Minister?

An Hon. Member: Are you going to go through them?

Hon. Zane J. S. De Silva: Yes, I am going to go through them. Of course.

[Laughter]

The Chairman: The Chair recognises the Honourable Member Zane De Silva.

Hon. Zane J. S. De Silva: Thank you, Mr. Chairman.

Clause 1 is the standard citation clause and cites the Bill before the House as the Municipal Reform Act 2010.

Clause 2 provides for the municipal areas of the city of Hamilton and the town of St. George's to be as shown on the maps in the new Schedules A1 and B1 to the principal Act. The maps are attached as part of the Bill before the House, and I wish to thank those technical officers from the Ministry of Works and Engineering who produced these versions for the purposes of this Bill.

Mr. Chairman, as the legends to the maps indicate, the series from which they are reproduced is available for inspection at the Ministry of Works and Engineering during office hours.

Clause 3, Mr. Chairman is the franchise provision and reforms the electoral process within the municipalities to provide that all persons meeting criteria for eligibility to vote in national elections who are resident within the municipal boundaries are eligible to vote in municipal elections.

Honourable Members are invited to take note that in anticipation of the requirement to assign ministerial responsibility for the municipal matters the responsible minister will have the ability to make orders under the Parliamentary Election Act 1978, as may be necessary.

Mr. Chairman, contrary to assertions, this is not unchecked power, as the exercise of this ministerial responsibility is proposed to be subject to the review of this Honourable House via the Affirmative Resolution Procedure.

Mr. Chairman, Honourable Members will be familiar with the provisions of the Parliamentary Election Act 1978 and will readily appreciate that at its heart the Act applies to elections to this Honourable House and may require modifications in its applicability with respect to the municipal elections.

Finally, with respect to this clause, Mr. Chairman, it is important to note that it does not come into force until the 1st of April 2011. And so there is no

question of immediacy in its impact to the prejudice of the existing Corporations.

Clause 4, Mr. Chairman, amends sections 18 and 19 of the principal Act to provide that all persons eligible and registered to vote in Bermuda may stand for election to the various municipal offices. This provision is designed to encourage those committed to genuine service to Bermuda to enter elected politics even at this level. The business interests of the municipal officeholders have been the unifying theme of their service, and few residents have had the confidence that their interests are being served. The manifest conflicts of interest are such that the various committees of the Corporations charged with the oversight of the various functions have been staffed and, in most cases chaired, by those with a district business interest in the activity.

Mr. Chairman, widening the pool of potential officeholders, taken with opening the franchise, will serve to reduce the likelihood of conflicts of interest in the running of the municipalities.

Clause 5, Mr. Chairman, repeals certain provisions of the principal Act, and thereby removes the power of the Corporations to levy wharfage and port dues. It is proposed that these provisions come into force on the 1st of April 2011.

Mr. Chairman, as I indicated in my Ministerial Statement of 16th of July, the Collector of Customs presently performs the entire administrative function required in the collection of these levies, and for a modest fee. At the end of the exercise, the funds are forwarded to the Corporation. Mr. Chairman, subject to mature discussions between the Government and the Corporations, it may well be that this arrangement continues, uninterrupted.

I hope Members are listening to that particular piece.

[Inaudible interjections]

Hon. Zane J. S. De Silva: For those that may have been talking, subject to *mature discussions* between the Government and the Corporations, it may well be that this arrangement continues uninterrupted.

The important point is that the Government must be satisfied that the taxes imposed on its people are just, reflective of the nature of the service provided, and based upon a formula that is not motivated solely by profit.

Mr. Chairman, I had occasion to share the nature of the existing arrangement with an eminent West Indian politician whose policies when in government bore resemblance to the Opposition's and our own. And her reaction was, *Man! What? You have two governments in Bermuda?*

That is the heart of it, Mr. Chairman—two tax policies, two entities exercising the function of national Government, but only one with the responsibility for national issues and affairs. The arrangement is outdated, ill-suited to modern governments, and must be reformed.

Clause 6, Mr. Chairman, again, in anticipation of the requirement to assign ministerial responsibility for the municipalities, this clause amends section 41 of the principal Act so that the annual statements of account, which are already a requirement, are forwarded to that minister, as opposed to the Minister of Finance. This is essentially a housekeeping matter in the entire scheme of the Bill.

Mr. Chairman, clause 7 provides for a special audit of the assets, liabilities, income, and expenditure of each Corporation to be carried out by an auditor appointed by the Internal Audit Committee within three months of the coming into force of this Act. Honourable Members will note that, unlike the much-vaunted balance sheet showing only income and expenditure of the Corporation of Hamilton, this audit will require an accounting of the assets and liabilities. Therefore, the auditor will provide a report to the Internal Audit Committee and to the responsible minister.

Mr. Chairman, clause 7 (4) through (8) contains language lifted from the Audit Act 1980, which Honourable Members will know governs the activities of the Auditor General for Bermuda. Mr. Chairman, were the relationship between the Corporations and the Government founded on adult terms, there would be no need to mandate these provisions. Honourable Members will recall from my general comments to the House that there has been no such cooperation to date, and the continuing ad campaign is indicative of the need to legislate openness on their part.

Mr. Chairman, clause 8 amends section 3(1)(f) of the Land Valuation and Tax Act 1967, to remove the exemption from inclusion in the draft Valuation List and, therefore, land tax of valuation units owned and occupied by the Corporations. Mr. Chairman, this provision will require the Land Valuation Officer to conduct an assessment of the estate of the respective Corporations and advise the Tax Commissioner with respect to the annual rental value of those units, with a view to a determination being made with respect to the payment of land tax.

Mr. Chairman, this Government has been creative with the payment of land tax. And a statutory framework exists whereby these payments can be assessed. That same framework will be applied to these units. In fairness, however, the people of Bermuda have a right to know what revenue goes wanting from this historical exemption; and moreover, a right to hold someone accountable if the land tax burden, therefore, is not equally and fairly applied.

Hardworking families and small businesses all across this Island are required to include the payment of land tax in their operational budgets annually. And it is only fair that these be applied to other entities raising money through the ownership of their buildings.

Mr. Chairman, I cannot estimate the amount of revenue this might generate, as the holdings of the

respective municipalities is not known. Those facts have not been among the recent open books and meetings.

Clauses 9 through 11: Mr. Chairman, Honourable Members will have noted that, for the purposes of the Explanatory Memorandum attached to the Bill, these clauses have helpfully been grouped together. In adopting that practice, these housekeeping measures represent necessary consequential amendments in light of the impact of clauses 2 and 5, previously dealt with in Committee.

Clause 12: Mr. Chairman, in furtherance of the necessary consequential amendments to give effect to the Bill before the House, clause 12 provides for the responsible Minister to make further orders as necessary. Again, Mr. Chairman, this is not unchecked power, as the orders proposed to be made under this clause are subject to the approval of this House, via the Affirmative Resolution Procedure.

This section is required, because I am advised that the body of laws on the national level has grown up around the functions of the Corporation of Hamilton. One might be forgiven for observing that as a parody for the history of Bermuda, the interests of business and Front Street seem to have preceded things like universal adult suffrage and other social causes. In any event, Mr. Chairman, this clause is required as the housekeeping requirements related to the many ordinances, regulations, and other such matters may arise from time to time as the evolution of this new relationship between the duty elected Government of Bermuda and the municipalities evolves.

Thank you, Mr. Chairman.

The Chairman: Thank you, Minister.

Would any other Members like to speak to the Bill, clauses 1 through 12?

The Chair recognises the Honourable Member, Mark Pettingill, from Warwick West.

Mr. Pettingill, you have the floor.

Mr. Mark Pettingill: Thank you, Mr. Chairman.

I would like to speak to a couple of things. I obliged the Minister to hear that he said that he knew the amendments were perhaps going to come from me and they would be taken under advisement, that they would be rejected tonight. It reminded me of the time I was doing a rather difficult jury trial, and I was preparing my closing speech. I learned later on that the jury had sent a note to the judge to say, *When can we say "Guilty"?*

[Laughter]

The Chairman: Just give him a little latitude.

Mr. Mark Pettingill: I made the speech; they found him guilty.

The Chairman: So what clause are we speaking to; is there one?

[Laughter]

Mr. Mark Pettingill: There is a clause, yes, I am speaking to. This is the comment with regard to the Minister's comments.

But I am going to press on, because I know that the Government is certainly waiting to hear on the amendments. And I say that, Mr. Chairman, as I begin by speaking to clause 3 of the Reform Bill and with regard to the electoral reform, which has been such a big issue with regard to this. If I may, Mr. Chairman, I want to say that certainly the country has heard, and I take the Minister at his word—he gave it to us the other day, and indeed the Premier—and I hope and trust that I will be able to be part of ongoing discussions with regard to getting this as right as possible in the coming months.

So I am accepting the invitation now that has been extended. And I will be there, as invited, and put forward these positions that—

An Hon. Member: Are you willing to shake hands on it?

Mr. Mark Pettingill: We do not have to shake hands with that. I am accepting the invitation, for the sake of that. I did get invited. I thought everybody got invited here. They have to take it up.

An Hon. Member: One at a time.

[Laughter]

Mr. Mark Pettingill: Well, Mr. Chairman, I am taking up the invitation on behalf of the country for trying to get us all in the position of getting good law. Okay? Right? That is what I will do. That is what we are here for.

The clause that I am proposing, Mr. Chairman—

[Inaudible interjection]

PROPOSED AMENDMENT
CLAUSE 3

Mr. Mark Pettingill: I will be coming with my colleagues, Mr. Crockwell and Mr. Hunt.

The clause that I am proposing, Mr. Chairman, relates to clause 3(1) 9A(1) and 9A(2) of the Bill. These are the areas that deal with electoral reform, and after section 9 of the principal 1923 Act, that is the section dealing with what positions are to be voted for. There is to be imposed into the Act the section 9A, which in short gives the right to all listed in the Parliamentary Register as resident in the municipal area of

Hamilton are entitled to vote. At a later stage in this Bill, for the sake of clarification, by clause 10 in the Reform Bill, it goes on to effectively remove the right from the current position with regard to who is eligible to vote. Those rights are contained, for the sake of clarity, in the Schedule to the original Act.

So this particular section, as it is now written, embodies the right of voting within the Act, which was not the position that it was in the original Act.

The proposed amendment, Mr. Chairman, is that, with regard to both of those sections on the elections in the municipalities of Hamilton and St. George's, that, after the word "resident" the words in both sections be added to include "building tenant, registered business owners, and employees."

The Chairman: Excuse me, Member. Are you moving a motion right now?

Mr. Mark Pettingill: I am moving—

The Chairman: So which clause are we talking about? Because I am lost.

[Inaudible interjections]

The Chairman: I did not see this section.

Mr. Mark Pettingill: The second page. It is a longer page. This is the one I am dealing with first, and I noticed they were stapled together.

Are you with me, Mr. Chairman?

The Chairman: Go ahead, Member.

Mr. Mark Pettingill: Yes.

So after the word "resident," as what is proposed by the current Reform, the words be added "building tenant, registered business owners, and employees."

And just let me speak to that, Mr. Chairman. That follows on a model that was put into place in a modernising programme in the city of London in 2002. It is also a model that has been used in Australia in a number of major cities that have municipal governments.

Now, the significance, Honourable Members, with regard to those two particular jurisdictions is that we draw on most of our laws in our courts, both criminal and otherwise, from first, of course, the English rules of law and precedent, and then secondly, many, many of the Queensland rules, particularly even the criminal code, as it relates to the embodiment of the laws. Because, believe it or not, Mr. Chairman, we embrace a lot of them from there. So it is significant to note that Australia, through its legal process, in modernising municipal governments, has embraced this approach.

[Inaudible interjection]

Mr. Mark Pettingill: A number of major cities. Canberra, you know, the major cities, the major cities have embraced it.

Now, this is also an approach, Mr. Chairman, that I know that the Chamber of Commerce of Bermuda has indicated both to the Government and to a number of others that they would be embracing of this type of approach. So they agree that there has to be reform, and that the citation as it relates to these types of individuals being involved not only increases the franchise, but is true democracy.

One has to bear in mind, as I said earlier, Mr. Chairman, that municipalities, by their nature, fall into a special category. That is number one. Number two is the question of, What individuals have an interest, a real interest, in the municipality? And the argument is, as set out by precedent in other jurisdictions, that the tenants of that municipality who have buildings there and so on, obviously must have an interest, because of where their businesses are and where they rent them. The registered business owners that own the buildings and so on must logically have an interest in what transpires in the municipality, especially given the fact that they are taxed. It becomes a classic taxation without representation. And that the residents clearly have an interest in the municipality because they live there. And that the employees who work there and spend many of their days, and even their nights, in those municipalities should have a say.

That is the modern approach. And if we are talking about modernising, that is the modernisation that has taken place in jurisdictions with similar laws, mirror-reflected laws to our own. If there, why not here? If there, why not here?

And if we do not know—and I am not to be taken at my word, but one would hope that the Government, in looking to pass this legislation, had researched it very diligently to ensure as to what other places have taken the approach of modernisation. So hopefully, that will be a matter we can have in discussion, going forward. We can sit around the table. I know it is another world. We can sit around the table, and we can talk about why we need to modernise it here. But that is the principle behind moving this amendment.

And let me say this. Surely, tonight, because what happens with regard to this (just for the sake of clarity), as the Minister rightly pointed out (and I am not endeavouring to interfere with that section at all with regard to section 12), the Minister still has powers as they relate, by affirmative action, if you will, to amend and to change the Schedule and to clarify what individuals are qualified to vote, and so on.

So when it comes to who is a tenant, who has a registered business, or owners, who are the employees, who are the residents? The Minister, at a time down the road, can set out what the qualifications

are for those particular individuals. Those are things that can be addressed by the Minister.

In other words, he would say, for instance, Mr. Chairman, in dealing with clause 3(1) 9A of the amendment of the people that are entitled to vote, because we are modernising and extending the franchise to these individuals, the Schedule of the Act will then set out that a building tenant is a person who has been in occupation of his business for a period of at least 12 months, so on and so on, that type of qualification.

A business owner is deemed to be a person who has been in ownership of their business for a period of a year and, you know, is the qualified and certified, registered business owner of the business, and so on and so forth, up to the so many owners. That an employee is a person who has worked for a particular registered business in the city for a period of one year or longer, shall be qualified to vote in a municipal election.

These are just examples, Mr. Chairman, not to be dealt with tonight, but examples of what the Minister, with his power under section 12 and the right discussion with the Corporation, can put into place. So all we are doing by suggested amendment here—and let us call it an olive branch or a bridge, if you will, because the only way that it can be actually put into play is if all the discussion that we are talking about takes place, because the Minister is the one that has to say, *This is what the qualifications are.*

[Inaudible interjection]

Mr. Mark Pettingill: Well, what an olive branch we can extend tonight, if we can embrace this amendment and extend the franchise and modernise our law right here, right now, tonight, by saying that after the word "resident," we include "building tenant, registered business owners, and employees" right there in the Act.

And hear the interpolation, *You want too much.* Those are the categories that are out there for an expansion of the franchise. If the Minister by section 12 does not qualify those or enforce them under those sections of the Act, well, then they would sit there for consideration. But the fact of the—

[Inaudible interjection]

Mr. Mark Pettingill: Yes, do not take it too far. I am not looking for customers. I was in on that conversation, right?

[Laughter]

Mr. Mark Pettingill: I think somebody was being facetious when they were having that conversation. But we are not talking about everybody that comes into the city, the customers.

These are people . . . Mr. Chairman, the key to this is, that, arguably, in these other places, what we are saying is that those sets, those categories of people—building tenant, registered business owners, employees, and residents—fall into a category of having a special interest in the special function of a municipality. They are the real stakeholders in that municipality.

And then we have to go on to say, *by what mechanism?* The Minister has to set that out. They are qualified to be in an election for members of the Corporation. Harry Potter has to wave his wand on this before it can actually happen. So it is there, but you have to go to the Schedule to then say, *These are the people that are qualified, and by what means and what criteria you are a resident.*

Because, obviously, you are not a resident if you are not a Bermudian resident, you are not on the Parliamentary Register. You are not an employee if you are not Bermudian. Let us be clear about this. Everybody who is out there listening: Those are the qualifications that are beyond refute. Nobody is questioning that. These are all about Bermudians working, Bermudians living, Bermudians owning. All right?

Because all that is transpiring tonight, even though we have spoken with regard to modernisation, is that we are discarding the owners of these particular places. And it strikes me as bizarre—as bizarre, Mr. Chairman—that a number of the owners that are being discarded are sitting right here in the House—Hott 107, no vote. I am stunned. I am stunned. I am stunned that people that have an interest in the Corporation, in the municipality, would be prepared to sit back so lightly—with great respect, like yourself, Mr. Chairman, and your café—and give up your vote.

In what modern jurisdiction (and I will say it like it is) would we ever have the argument of saying, *It is modernising because we are taking away the vote from black business owners?*

An Hon. Member: If they did not deserve it in the beginning.

Mr. Mark Pettingill: If they did not deserve it in the beginning, but I would have to say that business owners, and black business owners especially, who fought to have businesses and so on must deserve it in the first place. I do not understand why we would be taking it away from those categories.

Do not forget—do not forget the municipality has to be treated in a particular, special light. It is a particular operation. And the stake-owners are the ones that have to have the interest in that. And that is the key, Mr. Chairman.

Leaving that aside, we have to look also to employees and to tenants. And ask ourselves, *Why did those other, modern forward-thinking jurisdictions do this if we are not prepared to do it?* If we talk about modernisation, why were we not prepared to do that?

So I would encourage Honourable Members tonight in extending the position, to let us get this much right to show that we are on the right road by extending these categories and vote—

[Inaudible interjections]

Mr. Mark Pettingill: Members, come on. Please.

By extending the branch that needs to be extended and say, *We will at least go this far.* We are on the road. I am saying, let us go a little further down the road tonight, a further down.

[Inaudible interjections]

Mr. Mark Pettingill: Mr. Chairman, a little further down the road tonight to include that modernising category.

Do you want me to speak to the other amendments?

The Chairman: No. Let us deal with this particular clause 3.

There is a proposed amendment on the floor which reads as follows:

Clause 3: "All persons for the time being listed in the Parliamentary Register as resident, building tenant, registered business owners, and employees in the municipal areas of Hamilton are entitled to vote in the municipal election for the mayor, aldermen, and common councillors of the Corporation of Hamilton."

That is the proposed Amendment on the floor. Would any other members like to speak to that proposed Amendment?

The Chair recognises the Honourable Member and Premier, Dr. Brown.

You have the floor.

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Chairman.

Mr. Chairman, obviously you can tell by the language chosen by the Honourable Member who just took his seat that we have been talking about this. And as the Honourable Minister who leads on this issue has stated, we will take these amendments and suggestions under serious advisement.

But let me just make this point. And I do not know all the history behind what the Australians did or what the people in London did. But there are two points I will make. One is, when you expand the franchise beyond the residents, you could be headed in the same direction from which you came.

And the other issue is, after employees, why not customers? I was not being facetious. Because without the customers you will not have any employees and you will not have a business and you will not have a business vote. And so I think it is a slippery slope. But of course, I would defer to future discussion that we are encouraging.

The other thing is, something particularly Bermudian could be at play here. I do not know the history. I do not know what happened in Australia before they moved to this modernisation. You see, you can modernise, but you can be coming from C to D, or you may be coming from A to D. And so I do not know the background of Australia, and I do not know the background of London. But I know the background of Bermuda.

So first we have to detox. And once we do that, and we do the fundamental franchise, then there may be a time, Mr. Chairman, when we can do something else.

Thank you.

The Chairman: The proposed amendment—the Chair recognises the Honourable Member Pat Gordon-Pamplin.

You have the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Chairman.

I take heed of the Honourable Member's intent to put an amendment. And I note carefully the Government's reluctance to accept amendments at this time. But when one already has the vote, and you are now disenfranchising them, but you are also saying to them, *I still expect you to pay your Corporation tax,* I am just trying to determine, how do we reconcile that disenfranchisement? Because that has got to be distasteful to the Government, to take away the right that somebody already presently has.

The Premier mentioned that maybe they should not have had it in the first place. But I would just ask the Government to speak to that, to explain why 90 per cent of your revenue is coming from a base that, under this legislation, will have zero per cent of influence as to what goes on within the city. It makes no sense. And I wondered if the Government could really reconsider at this point to have legislation, to have legislation that would at least show that the intent is a proper reform.

Irrespective of whether you are coming from Z all the way around through A to D, or whether you are coming from C to D, the fact is the end result has got to be what is expected and what is ideal. And obviously, ideally, people who are putting in must have some say. You cannot have taxation without representation. And what the Government is trying to suggest, to not adopt this amendment at this time, is effectively disenfranchising a group of people, not the least of whom are ones that have just come onto that playing field that we now hope to make level. And now you are tilting it and skewing it against them. And it cannot be right. And it cannot be the intent of the Government. I am not wanting to believe that.

Or perhaps maybe it is. In trying to get to Front Street, you might be prepared to sacrifice Court Street. But it is not right.

The Chairman: Would any other Member like to speak to the proposed Amendment?

The Chair recognises the Honourable Member, Mr. Walter Lister, Sandys South Central.

Mr. Lister, you have the floor.

Hon. Walter M. Lister: Thank you, Mr. Chairman.

If you went down to City Hall right now, you would see my name on the role as an elector. And, Mr. Chairman, I have not exercised that vote recently because of the unfairness of the system.

[Laughter]

Hon. Walter M. Lister: Mr. Chairman, it is no need to go down there to do it. I never participated. And I have a vote, Mr. Chairman, and I am quite willing to give that vote up in the interest of democracy. That is what we are trying to bring about here.

But the amendment to which the Honourable Member refers to tonight is why we are concerned about it. The same thing we are trying to achieve . . . he looks like he is trying to get through the back door to do the same thing again. And that defeats all the work that has been done by the Minister and this Government.

So therefore, Mr. Chairman, I am vehemently opposed to the amendment, because it is going to bring us right back to where we are. And all of the efforts that have been put into this discussion mean naught.

The Chairman: Thank you, Mr. Lister.

Would any other Members like to speak to the proposed amendment?

No other Members? No other speakers?

All in favour, say Aye.

[Inaudible interjections and general uproar]

The Chairman: Let me repeat myself. All those in favour—let me repeat myself.

All those in favour of the proposed amendment, say Aye. Those against, say No.

Ayes and Noes.

The Chairman: The Noes have it.

[Motion to amend clause 3 of the Municipalities Reform Act 2010 failed.]

An Hon. Member: If I had pulled that one, Jeff Caesar [SOUNDS LIKE] might just quit trying to unearth me.

[Laughter]

An Hon. Member: Oh, man. I would have quit after that.

The Chairman: Cheer up, Honourable Member.

An Hon. Member: I would have resigned with you and said, *I'm done. I'm done.*

The Chairman: All right, gentlemen. It is going to be a long night. Let us move ahead with this.

The Chair recognises the Honourable and Learned Member Pettingill from Warwick West.

Mr. Mark Pettingill, you have the floor.

Mr. Mark Pettingill: Mr. Chairman, I am not going to spend too much time. This is a very technical area, and I do not want to bore the listening public, or any of the Members, or the people in the House. But, just briefly, what in my humble view occurs as a result of the Reform Act in [clause] 5 . . . [clause] 5, just for the benefit of those listening, Mr. Chairman, repeals the power of the Corporation to levy wharfage and port dues.

The difficulty I have—and it is a legal and important one—is that it does not give it to anybody else. And that happens. Maybe we just missed that one. But usually, usually, the operation that you will see is that a Minister or, you know, or someone, the Collector of Customs or whatever, will be responsible for a certain function, particularly when you remove that function from someone else and it leaves a vacuum. That is just good law. And laws should be clear and precise and not have to be left to second-guessing, and so on and so forth.

So it will be prudent—and I am sure that this is a discussion that we can have with the Government to say, *Tighten this one up and make it clear and unequivocal that this new operation* (if you are going to do it this way) *needs to fall to somebody.* So the suggested amendments—and I will just read through them for the sake of it.

In clause 5—

The Chairman: I want to be clear, Member. You are only suggesting? You are not moving the amendment?

PROPOSED AMENDMENTS
CLAUSES 5 AND 10

Mr. Mark Pettingill: I am going to move them. I am going to move them. Obviously, I am here to move the amendments, yes. But I have heard already that *He is guilty,* so, you know, I am not going to belabour the point, right? But it is important that they get laid out.

I mean, yes, I do move the amendments.

In clause 5(1), delete the entire section and substitute with subsection (a) with the following words: "In section 31 to 33, the principal Act, which relates to

the power of the Corporations to levy wharfage and port dues, et cetera, substitute for the words 'Corporation of Hamilton, City of St. George's' with the words 'the Minister responsible for municipalities.'"

That is one.

Two: In clause 5(1), add subsection (b) as an amendment in section 34(5) of the principal Act, substitute for the words "Corporation" with the words "the Minister responsible for Municipalities." In Clause 5(1), add section (c) in section 36(1) of the principal Act, substitute the words "either Corporation" and "Corporation" with the words "the Minister responsible for Municipalities."

In clause 5(3), amend number (3) to read number (4).

In clause 5, at section 4 with the words "all wharfage" (this is quite a significant one, but this is what I am suggesting because this is how departments work, from police to everybody else. And this perhaps would allay a lot of concerns, again.) add subsection (4) with the words, "all wharfage and port dues collected shall be deposited in a specified Corporation fund and allocated to the Corporation budget submitted to the Minister responsible for municipalities." In other words—

The Chairman: Can I just stop you one minute?

Mr. Mark Pettingill: Yes. Please.

The Chairman: To be honest, most people probably do not understand what you just said.

Mr. Mark Pettingill: I understand that.

The Chairman: And I am wondering whether it would be wise to, at the end of the day . . . the Government has always said that you can have discussions once the Bill goes through, and whether you can have this general discussion at that time.

Because at this time, to go through all these clauses, to be honest, I do not know where this fits in. I am not sure whether most Members feel that.

Mr. Mark Pettingill: There are only two to go. Let me finish reading them out, and I will adopt that. You know? And I tend to, like my honourable and learned friend Mr. Barritt, I like a little bit of process as well. So whilst I know that I am getting a *guilty* verdict, I think if I could just finish reading them, and then in the spirit of co-operation I will do that, and I will move on.

So let me just say what that one is again.

What I am saying is that the wharfage funds that are collected would go into a specified fund for the Corporation, who would submit a budget to the Minister, who would then give the funds over out of the specified fund that they go into.

In clause 10, delete the entire section, including subsection (1)(a), (b), (c), (d), (e), and subsection (2). Now, the reason for that is a specific legal reason, in that that section refers to the Schedule of the Act, which tells you about how elections are to be run. And I think whoever is going to be voting, we need to have that in there. And I would delete that. And that Schedule to the Act is something that the Minister deals with—not us here—and has the power to deal with under section 12, and even under the old Municipalities Act 1923.

So, the operation of clause 10 I say should be taken out entirely. And then that would amend 11 to read 10, and 12 to read 11.

Mr. Chairman, I have passed on those proposed amendments to the Government. I am hoping that there will be further dialogue and discussion on them. And they have them on board.

The Chairman: Would any other Members like to speak to clause, let us do 5 first. Would any Honourable Member like to speak to clause 5, the proposed amendment (sorry)?

An Hon. Member: Mr. Chairman, actually, we have some amendments on clause 5 and 11. Maybe we had better deal with this one first.

The Chairman: Yes. Let us deal with this one first.

An Hon. Member: Ours are a lot simpler. Thank you.

The Chairman: Would anyone like to speak to the proposed amendment put forward by the Honourable Member Mr. Pettingill?

Mrs. Gordon-Pamplin, you have the floor.

Mrs. Patricia J. Gordon-Pamplin: I would like to speak—the Bill is fine as printed, but not the amendment. Clause 5—

The Chairman: We are talking about the proposed amendment right now.

Mrs. Patricia J. Gordon-Pamplin: Okay. Then I wish to speak to clause 5.

The Chairman: Are you speaking to the amendment?

Mrs. Patricia J. Gordon-Pamplin: Actually, I can speak to the amendment . . . well, no. I need to speak to the clause itself, without the amendment.

The Chairman: Okay. I am talking about the amendment right now.

Would any other Members like to speak to the proposed amendment?

[Inaudible interjections]

The Chairman: We have not. Oh, you did not? Oh, okay.

So there has been no motion or moving on the proposed amendment, or 10 or 11, correct? All right.

Would any Honourable Member like to speak to any clauses, from 1 to 12?

Mrs. Patricia J. Gordon-Pamplin: I would like to speak to clause 5 because this was the subject to which the Honourable Member spoke.

The Chairman: Pat Gordon-Pamplin, you have the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Chairman.

Mr. Chairman, I am speaking to the issue of the repeal of the power of the Corporation to levy wharfage and port dues. And I just wondered if the Government could advise us, knowing the impact of the Corporation's reduced revenue from port dues and wharfage that they would have had, which now under this clause they will no longer have, will presumably be required to make up that shortfall from additional taxes levied on the businesses in order to continue to provide the goods and services that they presently do.

The question that I have is, with the additional payroll tax and all the other taxes that the Government has levied on businesses, has the impact of additional taxes that will obviously be necessary from this been taken into consideration in terms of the cost of an entity operating its business, which now, with having additional payroll tax that we have already had, additional costs, their insurances have gone up, and now their Corporation tax, of necessity, will increase, how will the Government monitor these additional charges that are likely to happen? And has the Government considered the negative impact on businesses for the additional charges that will come, of necessity, as a result of this Bill?

Thank you.

The Chairman: Would any other Member like to speak to clauses 1 to 12?

The Chair recognises the Honourable Member Mr. Gibbons.

Dr. Grant Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman.

Mr. Chairman, as I said (and you have a copy of them), I have some proposed amendments. But I have a couple of questions first that I would like to go through.

I am on clause 3. The question I have here is, the effect of clause 3, which changes sections 9 and 9B and puts in place the Parliamentary Election Act as the governing act for elections. The Parliamentary Election Act has timelines which are more suited to national elections or bi-elections. The effect of clause 3, and I think particularly clause 10, is to remove the schedules, which take away all the issues of timing and procedure for Corporation elections.

I guess the question I have for the Minister is, Is that the point here, with 9B under clause 3, that he is going to rewrite all of that timing? In other words, the Corporation has certain time schedules within which it has to have an election. It has certain procedures. You know, there is sort of effectively a writ period, and there are certain time periods in which things need to be done.

All those are being wiped out by clause 10. Is the Minister going to rewrite all of those, I guess, under clause 3?

The next question I have relates to clause 9. And, Mr. Chairman, this is a little bit complicated, but I am sure you will bear with me. Clause 9 effectively repeals one of the Acts that was passed back quite a few years ago, in fact, over 50 years ago. It was called the Hamilton Extension Act of 1951. And that is under clause 9; it is sections 1 and 2 of the Hamilton Extension Act.

What the Hamilton Extension Act did was, it added, effectively, a chunk of property which effectively equates to the area between Bermudiana Road and Par-La-Ville Road. And sections 1 and 2 of that effectively made that extension, but they also made the point that the Corporation would be able to (and I am reading from the Hamilton Extension Act [section] 1) "shall be entitled to all the franchises and privilege which other land within the city of Hamilton now enjoys and be subject to the same rates, taxes, and other assessments as are applicable to such other land within the city of Hamilton."

A technical question has been raised here in terms of repealing this section 1, whether that particular chunk of land, which was an extension to the municipal boundaries, would now not be subject to Corporation taxes. And I just, for the avoidance of doubt, want to get the Minister's clarification that the municipal area as defined here is sufficient to allow the Corporation to assess Corporation tax in that particular area and it was not lost by the repeal of, effectively, section 1 of the Hamilton Extension Act.

I am happy to clarify that if the Minister requires it. But what I am really looking for is an affirmation that that particular piece that was extended is still subject—even with the amendments that we are dealing with today—to Hamilton Corporation tax. Otherwise, it would be a further removal of the Corporation's ability to raise funds.

I will stop there, Mr. Chairman, but I have a couple of other points.

The Chairman: Would any other Members like to speak to clauses 1 to 12?

Minister?

Hon. Zane J. S. De Silva: Yes. Thank you, Mr. Chairman.

The answer to that last question from the Honourable Member is, yes, it does, because the land does remain within the boundary.

With regard to the question from the Honourable Member, I believe it was Mrs. Gordon-Pamplin, I believe she had a question on—

[Inaudible interjection]

Hon. Zane J. S. De Silva: No, no. Have we considered . . . with regard to the application of the election. I think Dr. Gibbons asked this question. It was about the Parliamentary Election Act: Are we going to go through and make all the necessary changes? Yes, we are. That is why we give the ability of the Minister to make an order.

With regard to the Honourable Member Mrs. Gordon-Pamplin regarding the wharfage and port dues, the question was, Have we considered the impact of it? And remember, the Corporation cannot impose the wharfage, the levy on the wharfage, and port dues. But it does not mean that they will not get it. And after we complete the audit, conversations will take place in order to work these things out.

The Chairman: Would any other Members like to speak to clauses 1 through 12?

The Chair recognises the Honourable Member Pat Gordon-Pamplin.

You have the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you.

I think the Minister missed my point. But I think in his response it might be that the revenue stream may not be as negatively impacted as was first understood. But the question really was, not with respect to the wharfage and duty, but whether the resulting loss of revenue . . . whether the Government was going to put any sort of stipulation on the increase in Corporation tax that would have to be paid by entities.

In other words, if they are going to lose their revenue stream in the first instance, would there be some sort of guidance? In other words, if the Corporation effectively said, *Okay, I am not going to have $6 million in wharfage dues. But I still want $6 million, so therefore I am going to tag that on to the Corporation tax.* Is the Government going to stop that practice for the protection of the businesses who have already been hard done by?

So I think a combination of the two, that if the revenue is not going to be as negatively impacted, because the Minister just indicated that the Corporation may get some of the revenues from the ports, then perhaps the Corporation will not then have to raise quite as much in the Corporation tax as was initially envisaged. But it just was not clear, based on what the Minister said.

So I am quite happy to accept the explanation. But certainly, we will keep a watching brief on this.

But I do have another question with respect to clause 3. And that is, Does the Minister have any indication at the moment how many people there are on the Parliamentary Register for the city of Hamilton? And could he give us an indication as to how many residents there are in the city of Hamilton?

Basically, in other words, I am just trying to figure, trying to understand the impact of the actual electoral process, based on this clause 3.

Thank you.

The Chairman: Thank you.

The Chair recognises the Minister Mr. De Silva.

You have the floor.

Hon. Zane J. S. De Silva: Thank you, Mr. Chairman.

Pretty close to 750, Mr. Chairman, 750 on the Register, yes.

And just to get back to the Honourable Member's question regarding the wharfage and port dues, let me state very clearly . . . maybe, you know, the Honourable Member can listen a little more clearly, okay? Is that—

An Hon. Member: Not one of her better days.

Hon. Zane J. S. De Silva: Yes. Not one of her best.

Just because the Corporation will not be able to impose the levy—and I will repeat—does not mean that they will not get it. We intend to fully work with the Corporation after tonight, and going forward. And these details will be worked out. There will be no taxes to worry about because of the shortfall in levy. That is a myth that is out there. Let us get rid of that myth about the Corporation losing $6–$7 million. That money will not be lost. The Corporation will . . . the only difference being is that, instead of that check being written by the Customs Department and sent over, there will be a consultation before that check goes over.

And I expect fully in the next few months, especially when the audit is complete, that we will work this out going forward. And of course, our Finance Minister will be having conversations with regard to the upcoming budget next year.

The Chairman: Would any other Members like to speak to clauses 1 through 12?

The Chair recognises the Honourable Member Grant Gibbons.

Dr. Grant Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman.

Mr. Chairman, I have a question on clause 5. And obviously, I think we all understand that clause 5 repeals the ability of the Corporation to levy wharfage and port dues. We heard the Honourable Member say that there is going to be some negotiation here. There are no guarantees—discussion, discussion. There are no guarantees here.

The question I have is, clearly this takes away the Corporation's ability to be able to levy those port dues. But does the Government, regardless of how those discussions come out, does the Government intend to continue to collect that wharfage and port dues?

Hon. Zane J. S. De Silva: Well, we are certainly not—

The Chairman: Minister.

Hon. Zane J. S. De Silva: Sorry.

The Chairman: Would any Members like to speak to clauses 1 to 12?

The Chair recognises—

[Inaudible interjection]

The Chairman: No, I am not. I am not trying—

The Chair recognises the Honourable Minister Mr. De Silva.

Hon. Zane J. S. De Silva: Well, certainly, certainly, the wharfage that is being collected will continue to be collected.

The Chairman: Would any other Member like to speak to clauses 1 through 12?

The Chair recognises the Honourable Member Dr. Grant Gibbons.

You have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman.

Mr. Chairman, I have a question with regard to clause 7, which makes provision for the special audit of the Corporation. And the question I have is, basically, what this requires is that within three months a special audit needs to be taken. Now, it is out of the normal cycle of the Corporation because their year ends December 31st.

I guess this is more of a suggestion, as well as a question. Has the Government given any consideration to simply asking the Corporation to take the auditor of the Government's choice; that auditor would then do the normal 2010 audit? So there would not be two audits done within the space, essentially, of six months.

Because we know an audit is going to roughly run them $100,000–$200,000. It would probably make a lot of sense to combine both audits into one, so the Corporation would have their audit done for 2010. But the Government could put any special questions to the auditor that they wish to choose. It may not be KPMG, which is the current auditor. But it would save, dare I say, the taxpayers? I do not know who is going to pay for this. I am guessing it is the Corporation. It would certainly save the taxpayers, the Corporation, some additional money.

The Chairman: Would any other Honourable Members like to speak to clauses 1 through 12?

The Chair recognises the Honourable Member Mr. Benton Swan.

You have the floor.

Mr. Charles F. B. Swan: Thank you, Mr. Chairman.

My question is to . . . I think it is [clause] 4 of the Act here, talking about Qualifications for nomination as Mayor, Alderman, or Common Councillor. I wonder if the Honourable Member who speaks for this . . . it says, "A person shall, unless disqualified by virtue of this Act or other statutory provision, be qualified for nomination as a candidate in an election for the office of Mayor or an Alderman or Common Councillor of Hamilton or St. George if he is for the time being listed in the parliamentary register for Bermuda."

I take that to mean that anyone anywhere in the Island here who is on the parliamentary register can run for any of these positions. I just wondered if—and I am tossing this question, probably, for everyone to think about—there is potential here for any sorts of conflicts. You know, people who already hold public office can run for mayor or common councillor or alderman. Elected officials can as well. Business owners can. And I just wondered if there was any sort of potential for any sort of conflict of interest in that, and if it might need clarification.

Thank you, Mr. Chairman.

The Chairman: Minister, before I take you, do any other Members want to speak to clauses 1 through 12?

Do you want to take some notes, Minister, and leave it?

The Chair recognises the Honourable Member, John Barritt, from Devonshire South.

You have the floor, Mr. Barritt.

Mr. John Barritt: Thank you, Mr. Chairman.

My questions are with respect to clause 2 of the Municipalities Reform Act. I noticed in there that we are introduced Schedules now which purport to show the boundaries of the municipalities of Hamilton and St. George's. And these maps would be prima facie evidence in courts as to the extent, position, and boundaries of municipal limits. Yet we are leaving in

the Act sections, I think, 3 through 6, section 3 of which includes a legal description of Hamilton. I think [section] 4 does of St. George's.

And my question is, was Government able to confirm that the municipal areas shown on these maps accord with those property descriptions as they currently are set out in the Municipalities Act, as well as the two Extension Acts of '51 and '53?

I noticed also in the Municipalities Act that there was a requirement that maps be deposited at the Supreme Court Registry, which shows the boundaries of the municipalities. And they were required, I think, to be deposited within six months of the Act. And I am just wondering whether the Government was able to determine whether those maps were there and whether they were able to have reference to them in deciding what the boundaries are.

All of those questions are designed to determine how Government was able to ascertain the boundary lines with respect to these two maps that are here being attached to the Schedule which will become the boundaries, and to know that there have been no changes, either deliberate or inadvertent or because Government was unable to find the maps. I do not know.

Then the question, of course, arises as to whether or not each of the Corporations was asked to confirm that those boundaries are what they understand them to be, as well.

Thank you, Mr. Chairman.

The Chairman: Would any other Members like to speak to clauses 1 through 12?

The Chair recognises the Honourable Member, Pat Gordon-Pamplin.

You have the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Chairman.

I would like to speak to clause 11. And it is with respect to port dues and wharfage respecting West End Development Corporation. It indicates here that Wedco shall remain responsible for the collection of port dues and wharfage, and the money so collected shall form part of its revenue; i.e., Wedco's revenue. And then, [clause 11 section 75] subsection (2) goes on to say: "The West End Development Corporation shall pay to the Accountant-General, at such intervals as the Ports Authority may direct, all port dues so collected other than those referable to the berthing of any ship alongside the docks of the Corporation."

What we are seeing here is Wedco having the ability to collect all of the port dues, and then at some point in time, with a demand note, paying such portion over to the Accountant General as is needed; whereas, on the other hand, the Accountant General gets the first dip in Hamilton, and then pays back to the Corporation, based on what the Minister just said, the pittance that the Accountant General chooses to mete out.

So my question is, why are we having two different types of processes here? Would it not make sense, notwithstanding that they are two different entities (I understand that), but if we are talking about any justification for port dues to be paid into the Accountant General first as opposed to Wedco first, it would certainly be for the ports at the West End. Those are ports that were, effectively, built out of the public purse, so one would think that revenues would automatically go into the public purse, as opposed to allowing Wedco to collect them first.

On the other hand, you have got in the Corporation of Hamilton, based on the Minister's recent response, that those port dues from Hamilton will be collected firstly by the Accountant General.

So I am just trying to understand the two processes for the exact same thing. It seems to me as though it is a question of, Does the Government not believe that the Corporation will . . . or, no. I am sorry. Does the Government believe that the West End Development Corporation is better able to collect the taxes up there at the West End and pay over whatever the demand note would require to the Accountant General's fund, and not have the same sort of procedure in place for the Corporation of Hamilton?

I am just not sure that I understand why the differential in the processes. And if the Minister could explain that, then I would be grateful.

Thank you.

The Chairman: Would any other Members like to speak to clauses 1 through 12?

The Chair recognises the Minister De Silva.

Mr. De Silva, you have the floor.

Hon. Zane J. S. De Silva: Thank you. Thank you, Mr. Chairman.

Mr. Chairman, with regard to the Honourable Member that just took her seat and her question on clause 11, Wedco is a quango. Wedco builds houses, they rent houses. It is a different organisation altogether.

Mr. Chairman, the Honourable Dr. Gibbons asked about the audit and whether or not we had considered costs. It is a good question because maybe the Corporation, I believe, is still listening quite intently. I understand they recently had an audit done. Maybe they might want to just help us in that regard. I believe it was quite recent, up until recent times. So maybe in our deliberations in the next few weeks that will be forthcoming.

With regard to Mr. Barritt and the maps, these are current maps. Neither the Archives nor the Supreme Court has any record of the maps. We believe that the Corporation has that. As far as Works and Engineering can determine, the boundaries have not

changed since 1966. The ordinance survey matches the descriptions that we have attached to the Bill.

I think the Honourable Member, Mr. Swan, asked about the election of the mayors and councillors. And we, being a caring and considerate Government, yes, anyone on the Island can stand for election. As for the conflict of interest, well, I do not have to talk about the conflict of interest. I think the past record of all those involved with the Corporation certainly had a conflict of interest.

The Chairman: Would any other Member like to speak to clauses 1 through 12?

The Chair recognises the Honourable Member Pat Gordon-Pamplin.

You have the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Chairman.

Mr. Chairman, I just wanted to make reference to the Minister's earlier statement respecting the audit. The Minister indicated that what he had seen thus far does not give him any indication as to the value of assets that the Corporation . . . the value that they possess. And all they were able to see were the revenues, and therefore justifies having an audit.

I just want to point out to the Minister that a statement of income and expenditure is not a balance sheet. And the point at which the Government and the Minister would be able to see the value of the assets would be by reference to the balance sheet. So I do take the Minister's comment and hope that they do take it on board with respect to the cost of audits, because to spend an unnecessary $150,000 to $200,000 to conduct another audit makes no sense if the documentation is already available.

And that having been said, with respect to his response on the electoral process, I am just going to say that I am voting for Jenks for mayor.

Thank you, Mr. Chairman.

The Chairman: Would any other Member like to speak to clauses 1 through 12?

The Chair recognises the Honourable Dr. Grant Gibbons.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman. Ever so briefly.

Mr. Chairman, you will recall that when we were in the House, a number of Members spoke to the issue of wharfage. And I particularly want to speak to [clauses] 5 and 11. There was, I think, quite a bit of agreement that Members wish to broaden the franchise and reform the franchise, but there was a great deal of concern expressed about the removing of about a third of the Corporation's revenue.

You have in front of you a formal proposal, an amendment, to delete in its entirety both clause 5 and clause 11, which essentially are the two clauses here which remove the Corporation's ability to, essentially, charge wharfage and port dues.

Listening to the Honourable Member, Mr. De Silva, and listening in regard to the earlier efforts by my colleagues in the BDA to amend those two particular clauses, I am not going to press those formally. But now that we have a Hansard, we would just like to go on record that it certainly was our intention to delete both clause 5 and clause 11. But we are not going to put to the House the unnecessary time of actually doing a vote on that. But just let it be known that those two clauses, we feel, should have been deleted.

But if the Honourable Member is going to work with the Corporation, and they are still going to collect the wharfage, we hope that most of that goes to the Corporation, not the Government coffers.

Thank you, Mr. Chairman.

The Chairman: Would any other Members like to speak to clauses 1 through 12? No other Members would like to speak to clauses 1 through 12?

Minister, would you like to move the Preamble?

Wait. Have you moved the clauses yet? You have moved the clauses? Let us move the Preamble.

Hon. Zane J. S. De Silva: Well, actually, I would like to move the Schedules first, Mr. Chairman.

The Chairman: Those in favour of the clauses 1 through 12, say Aye. Those against, say No.

AYES and one audible NO.

The Chairman: The Ayes have it.

[Clauses 1 through 12 of the Municipalities Reform Act 2010 passed.]

The Chairman: Will you move the Preamble? Will you move the Schedules?

Hon. Zane J. S. De Silva: Yes, I would like to move the Schedules, Mr. Chairman.

The Chairman: Any objections to Schedule [A]1 and Schedule B1?

Those who are for, say Aye. Those against, say No.

AYES.

The Chairman: The Ayes have it.

[Schedule A1 and Schedule B1 of the Municipalities Reform Act 2010 passed.]

Hon. Zane J. S. De Silva: Mr. Chairman, I would like to move the Preamble.

The Chairman: And report it to the House?

Hon. Zane J. S. De Silva: Yes, and that would be reported to the House, yes.

The Chairman: Those in favour of the motion, say Aye. Those against, say No.

AYES.

The Chairman: The Ayes have it.

[The Preamble to the Municipalities Reform Act 2010 passed and is reported to the House.]

[Pause]

House resumed at 9:30 pm

[Hon. Stanley W. Lowe, Speaker, in the Chair]

REPORT ON BILL

MUNICIPALITIES REFORM ACT 2010

The Speaker: Is there any objection to the report of the Committee as printed?

Agreed to.

I did hear it, but I did not think the Honourable Member was serious.

We are going to move to Order Number 2, on the Order Paper.

The Speaker: I recognise the Honourable Member Mr. Premier.

Mr. Premier has the floor.

SECOND READING

PUBLIC ACCESS TO INFORMATION ACT 2010

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Speaker.

I move that the Bill entitled the Public Access to Information Act 2010 be now read the second time.

The Speaker: Any objection?

Agreed to.

Carry on, Mr. Premier.

Dr. the Hon. Ewart Frederick Brown: Mr. Speaker, today is the fulfillment of this Government's longstanding pledge to operate in the light of public scrutiny. It is the expansion of the limits of democratic citizenship characteristic of Bermuda's not-so-distant past. We have always had a vision for Bermuda, and the Public Access to Information Bill brings us closer to the Bermuda of our imagination.

Some may perceive this Bill as a lofty concept, one for politicians and journalists. And while I am sure that there are many who are anxious to peer through the files of the Office of the Premier, the benefits that this Bill will open up to all Bermudians and residents is truly for each and every one of us. Democracy and good governance are not simply ideals to be discussed and debated by politicians, but principles that must be realised by everyday people.

Mr. Speaker, Public Access to Information will not only provide a statutory right for people to request and obtain information, it will provide an obligation of review and appeal in cases where information is not provided.

There are a number of great objects of this Bill: to make government for all generations to come more open and transparent; to develop a more efficient and engaging Civil Service; and to increase accountability to the people of all public bodies. This Bill will increase the sphere of public influence on how Government does the people's business.

Mr. Speaker, for the single parent interested in getting his child into a particular school, or the descendants of war pensioners who want to know why they have been denied benefits of equal measure, or the hospital patient who wants access to her medical records, this legislation is for them.

For those who believe in a better Bermuda and want insight into the sustainability of our waste methods, the efficacy of zero-based budgeting, or how Government's policies strengthen Bermudian culture, this legislation will give them access to the answers. And for those who seek justice and redress predicated upon access to information, this legislation will empower them also.

Mr. Speaker, I also believe it important for my colleagues across the floor to know that we did not simply answer the call for Public Access to Information; we made the call.

This Bill is in many ways the daughter of Bermuda's constitutional reform. Through the labour of love of my esteemed colleague, the Honourable Dame Jennifer Smith, Bermuda's modern Constitution was brought to life. Work began in earnest to launch the next era in Bermuda's democratic maturity, and under the Premiership of my predecessor, the Honourable W. Alexander Scott, a project team was struck to implement the Throne Speech pledge to examine proposals for Public Access to Information.

Comprehensive research and consultation began. Presentations were made to every Ministry of the Government. International consultation that focused on both the successes and shortcomings of Public Access to Information laws around the world was conducted. This important work resulted in a Discussion Paper outlining the Government's intention to bring forward this legislation.

At that time the interest in the initiative was strong, but the number of comments on the Discussion Paper was few. In spite of this, the work embodying the legislation continued quietly and diligently until the Consultation Draft of the Bill was released for Bermuda and the world to review and provide comment.

The consultation was conducted not for its own sake, Mr. Speaker, but to hear the views of the people and, where appropriate, amend the Consultation Draft for its improvement. The Government worked hard to obtain substantive and meaningful feedback on the Bill. Presentations were made to the general public, civil society groups, Rotary, and on the local airwaves. Following these efforts, we were inundated with submissions and received over 500 comments on the Bill. The people decided to speak, and not only on talk shows and in barber shops and boat clubs; people chose to speak directly to their Government. And it should be no surprise, Mr. Speaker, that we listened.

The consultation submissions called for the law to be fully retrospective, for more detailed fees information to be provided, for fewer exemptions, for amending the procedures under which the appointed Minister could make regulations, and for protection for civil servants and whistleblowers.

The Government revisited its large library of research and deliberated on the substance of every single consultation submission. The issue of retrospection, the greatest concern raised during the consultation, has been fully addressed with the deletion of Section 13 of the Consultative Draft Bill, which read in part that the Bill did (quote) "not apply to records held by a public authority that were created before the coming into operation of this section."

I am proud to say that the Bill now currently covers all records, irrespective of when they were created, dating back to the time of the Charter for the Somers' Isle Company—in other words, Mr. Speaker, back to the Sea Venture. Exemptions pertaining to personal information, the deliberations of public authorities, financial and economic interests, and the Governor's responsibilities and communications with the United Kingdom were narrowed to allow significantly more information to be accessed through this legislation.

The Minister's powers to make regulations, as is common practice in a number of laws through the negative resolution procedure, are now mandated through the affirmative resolution procedure.

Additionally, the Government has not only provided protections for civil servants acting in good faith under the legislation, but affords those protections to every public authority, its employees, and agents.

Mr. Speaker, I would like to announce at this time that the consultation submissions in their entirety are available at the Cabinet Office for all to see. It is important to this Government to share with the very public who participated in the development of this public policy just what was said and how.

And so, on this day, it is intended that Bermuda take another step towards joining the 70-plus countries with Public Access to Information legislation. We will join the company of countries as large and vibrant as India, and as small and tranquil as the Cayman Islands. Every Ministry and Department of Government, every quango, every Parish Council, and every board and committee will be covered by this legislation and required to provide information to members of the public, both proactively and upon request. From Government House to the Office of the Premier to the Bermuda Police Service to the King Edward VII Memorial Hospital, the light will shine on these and every other public authority.

Mr. Speaker, I have already heard the question, *When will access be provided?* The issue of just *how* to provide access to members of the public has been a key component of our proposals thus far and must be addressed before the question of *when* can be correctly answered. The Government has carefully examined implementation of Public Access to Information in many other jurisdictions and is currently concretizing these efforts through the drafting of a comprehensive plan by the Permanent Secretary, seconded to the Cabinet Office, for oversight of Public Access to Information implementation. This is further demonstration of the value that we place on making this legislation a practical reality.

The public will be able to exercise their statutory right to access information within the next two to three years. Efforts are already entrained to establish a Public Access to Information Unit to lead implementation across all public authorities. The Unit will also have ongoing responsibility for monitoring and evaluating the legislation's effectiveness and will provide ongoing support to public authorities to ensure that they are ready to meet and exceed their statutory responsibilities with regard to providing access to the public.

The Bill will also establish an independent Information Commissioner, who will hear appeals and have the power to make binding decisions on any denied requests for information. The Commissioner is also responsible for promoting Public Access to Information to the general public.

A special *Thank you*, Mr. Speaker, must be extended to our sister to the south, the Cayman Islands, who have been instrumental in providing ongoing assistance and insight into their successes and challenges in bringing forward Public Access to Information. They have generously allowed us to engage them on a continuing basis, and we have learned a lot from their experiences thus far.

Mr. Speaker, on this special day, a day whose significance and impact will not be fully appreciated

for some time to come, I would like to close with the following remarks:

We have long been a Government that strives to advance Bermuda among modern, Western democracies, and today we continue in this process. This Bill fulfils our promise to give back to the people access to the information that is truly theirs. The Government will become a spectrum prism through which information will be disseminated in all of its shades and colours for all to see. This is but one of the many paths that we have chosen for a better Bermuda.

[Desk thumping]

The Speaker: Thank you, Mr. Premier.

Any further speakers?

I recognise the Honourable and Learned Member, Mr. J. Barritt, Devonshire South Central.

Mr. Barritt, you have the floor.

Mr. John Barritt: Thank you, Mr. Speaker.

I wish I could say that the Premier stole my speech when he gave those remarks. But of course, I cannot say that because he ascribed authorship to the Progressive Labour Party and their longstanding commitment to modernising and advancing Bermuda's constitutional development.

But let me just say this, Mr. Speaker, that there is no sense looking for argument where there is not any or there should not be any, I think, except to say that this was a longstanding plank of the United Bermuda Party platform going back to, I think, the '98 election, when we recognised that Bermuda needed to advance in this particular area. And so we will say that persistence pays, and that Oppositions do have success in bringing Governments around, as the Progressive Labour Party well knows from the years that they have toiled in Opposition.

You know the expression "crocodile tears"? That is when people cry and they do not really mean it, Mr. Speaker. I do not want people to think that I am having crocodile *smiles* this evening when I embrace this particular piece of legislation.

But I will say this, that when the first draft came out and it did not include being retroactive or retrospective, I have to say at that time, not just us, but most people were dumbfounded that a Government which claims to have a commitment to Public Access to Information would not have made it retroactive. But I am pleased to say that submissions were made, and they were strong on this particular point, and the Government promptly and quickly reversed its position—and rightly so if it wanted to proclaim itself as being in the forefront and being prepared to advance the principle of access to information, because if you cannot go back, it is a nonsense, Mr. Speaker. And it was a nonsense at that time and almost made us a laughingstock.

I want to say this, too, that some credit has to go to the former Premier, the Honourable Alex Scott, for picking up the mantle here. It specifically was not, I do not believe, a plank in the Progressive Labour Party platform, ever—freedom of information laws or Public Access to information. But he took it up in the 2003 Throne Speech and indeed delivered a Green Paper on that, which we debated back at that time. And I think it was a robust debate. There was widespread agreement. Unfortunately, Mr. Speaker, Mr. Scott was . . . I am trying to choose the right word. (The hour is late; I want to get it right.) He was challenged and lost his leadership to the Progressive Labour Party, and with it we got another administration, and this seemed to, for a time, fall off the radar screen, which was a pity, because these things require momentum to keep going, being carried forward.

So after the Green Paper of 2003, we did not see anything until, what, the draft Bill was presented over . . . was it a year ago now, in 2009? So it was a lapse of some five years before it was picked up again, which is a pity, because these things require momentum to keep going forward. You know, on any view, opposition or Government, this is a major undertaking because it requires and necessitates a cultureship that we need in this country badly, Mr. Speaker—that we need badly. And this is an important step because it lets people know that they are entitled to this information, that it is not the preserve of Government or Minister or any particular head of a Department; that it is information to which they should have access and they should be able to obtain upon request.

I contrast how slowly we move, Mr. Speaker, with that, say, of the Cayman Islands. You know, they came here and helped us. And this is our competitor out there in the real world. And, you know, people when they come to jurisdictions and businesses, they not only look at your infrastructure for their particular business, but it is your Governmental infrastructure, how modern and progressive you are.

And the Caymans stole a big march on us, not something that I am particularly proud of because we used to be on the leading edge. And they got their legislation in place, a very progressive model, too. I have to say slightly more progressive than ours is as it currently stands. They got it all done within about 18 months following an election. You know, it can be done, and it should have been done here a lot more smartly than it has been done.

That said, you cannot and I cannot accuse this Government of failing to consult when we got to the end. What a marvelous difference that is! I will not pick on any other piece of legislation we have done here today.

[Laughter]

Mr. John Barritt: But what a marvelous contrast, Mr. Speaker, this is to other legislation. No, I am not

speaking of any particular piece of legislation we may have done today, Mr. Speaker. I am just saying. I am just saying—

The Speaker: I know you would not, because we—

Mr. John Barritt: We cannot do that. Absolutely.

The Speaker: We should not reflect.

Mr. John Barritt: Right. But what a marvelous contrast, what a marvelous example, what a marvelous approach, Mr. Speaker, when you are moving into an area that constitutes change and reform and you embrace people. Oh, my goodness, Mr. Speaker! Do not let me get carried away. But it is an important principle.

And do you know what? The community got involved in something that might seem a little lofty and esoteric to the average person, probably still does. But they got involved. People started to understand. And that is how we have to permeate out, so everybody understands how important these rights are and how important they are to them.

I give some credit here to an organisation—I believe they call themselves the Coalition for Community Activism. After the draft was done, they organised a round-table meeting that was held down at the BUEI over two days, I think it was. And they invited all the stakeholders. The Premier came along and gave a speech. The people who were involved in CPU, we got some of the . . . they actually brought in two people who work these sorts of laws in other countries and are experts in them. And we sat round the table. And out of that, too, Mr. Speaker, came some improvements to the Act.

And not only improvements, but a better understanding even for those at the table who are not in Government as to some of the challenges that are faced if people do take up these rights and exercise them on a regular basis, and not just journalists, but the average man and woman.

There is a real challenge here that has to be met because it is going to mean a sea change, a change in attitude, not just with respect to requests, the formal ones that come, but with respect to giving and sharing information, Mr. Speaker, contemporary, so we do not always have to ask these things and go searching, you know, on suspicion or because you think something is there, although in some cases people will be able to find out information, particularly when it comes to historical and legal research. These are important tools for the citizens to have or to have access to.

There are some points, though, Mr. Speaker, and the Premier touched upon a couple of them. Aside from changing the retroactivity, I thought another major change that came out of the submissions (and it was certainly in ours on this side, and I think others as well) was, when this legislation was initially presented, a lot of the regulation-making authority, which would include setting fees, and whether someone was in or out of the Act, was going to be done by the negative resolution procedure. And as you know, Mr. Speaker, I am quite outspoken on this sometimes, that we are doing through negative resolution procedure important changes that a negative resolution procedure does not get quite the notice and the impact that the affirmative gets because it has to come to this House.

But the Government changed that from negative to affirmative. That is another big tick I gave as a result of consultation. I said it at the time, when I saw the Act when it came out after the round of consultations. That said, Mr. Speaker, I still have some fundamental disagreement with the Act. As I said, I do not think it as progressive and as modern as it could be.

For instance, we have carved out these exceptions for public authorities that should not be subject to request. And I think that is wrong, Mr. Speaker. I think that everybody should be subject. Every public authority should be subject, and people should be entitled to seek information, unless it can be shown that it is a state secret, for instance, relates to national security, internal security (I do not know what national security we have here, Mr. Speaker), and that it is not in the public interest to be released—for the Government, what the Government would have by way of international security, Mr. Speaker.

But again, everybody should be subject. And so we would have shifted it slightly to be more like the Caymanian model, Mr. Speaker, which says that everybody is subject to a request, unless, of course, it is shown that that request is not in the public interest. And that is why you set up a body of exceptions, and you set up the office of . . . What are we going to call this person? Is it the Information Commissioner who would be able to develop guidelines and practices that would come?

There is another thing in here with respect to third parties not being able to get information as respects third parties. And again, I am not so sure that Government, the Information Commissioner should be required to consult with third parties before information is released or that the third party should in any way be able to hold up the process, Mr. Speaker.

There is another thing. In the Act, there is a limit that says historical disclosure cannot be given until after 30 years. We think 30 years is too long. It ought to be reduced to 20, Mr. Speaker. That is in line with most other jurisdictions, some as low as 15. And I will be proposing an amendment to change that from 30 to 20. That is a clean amendment that could be made.

Some of the other things that I talked about, Mr. Speaker, I am going to come back to that. I am not proposing any other amendments here this eve-

ning, because this is a start. It is a good start. As I say, we have a fundamental disagreement that we may be able to, in time, change through further amendment as things come to light through practice.

As I say, the rule on nondisclosure should be a general one that all things are subject to disclosure unless it fits within an exception.

The other provision that is still in there which gives us trouble on this side, and did right from the very beginning, is that the right to information . . . Other secrecy laws that respect information that ought to be, can be, kept secret under other statute override this Act. We think that is wrong. This Act ought to override and say that the information laws should prevail over any other inconsistent secrecy law, Mr. Speaker. And, as we say, our view is that it should be wider.

There is one other thing as well, Mr. Speaker. Part of our submission when we made comments was that we thought there ought to be, as there is in the Cayman Islands, this whistleblower protection for civil servants who, as they say, whistle-blow. And that is where they release information on wrongdoing or something that is a serious threat to the health, safety, or the environment, as long as that civil servant acted in good faith and in the reasonable belief that the information was substantially true. And unfortunately, that has not made its way into this particular draft.

That, we think, is a pity. I do know one provision in there that was added after that submission, which is the civil servants who release information in good faith within the framework of this Act are given protection. And that, of course, is something I would expect to see, Mr. Speaker, and glad it was added at the end. But it is not as comprehensive as we think it should be.

Mr. Speaker, I have questions that I will ask in Committee with respect to specific clauses, but the last comment that I have with respect to this—and the Premier spoke briefly to that—I was hoping we would hear this evening what the timetable is for moving and the implementation of this Act. Because when we did the Green Paper, it left off then back in 2005 saying, *Ultimately, Government hopes to achieve implementation within three to five years.*

[Inaudible interjection]

Mr. John Barritt: I heard the Premier.

But I was hoping—because one of the things that the Act says, that it will commence on a certain date to be fixed by the Minister. And I would have hoped, Mr. Speaker, that, having discussed this for so long and having had a special dedicated unit with CPU, that we would be further along where we could commit, where we could commit to a date certain and say that, *By December 31, 2011, it will start to become operational,* that we will have the appointment of the Information Commissioner by a date certain so this thing can get moving forward.

Someone has got to drive this, Mr. Speaker. I do not know that any particular Minister has been given responsibility for it. It has been under the Premier's Office to this point. We know how large that particular [INAUDIBLE] Ministry, I guess it is called, the Cabinet is, and the number of things there.

I think that because this is so important, because it makes for a sea change in the way Government have operated and are going to operate, that it ought to have someone driving it, and not just a Minister. But you have got to have that person appointed as Information Commissioner to get this thing rolling, to get it moving forward, and to get it up and running by a date certain. I do not think there is going to be an initial flood of requests. I could be wrong, Mr. Speaker. But I do not see that happening. I think it is something that will start slowly as it starts to catch on, and people get notice of it, and other people learn what success they have had, and how successful it can be.

But we really ought to say and ought to hear that the Information Commissioner is going to be appointed by a certain date; that person is going to coordinate; and so-and-so in this Ministry is going to drive it so this thing can happen sooner, much sooner, Mr. Speaker, than two to three years. I realise there is a challenge, but we have been at this—not we, the Government—for some now, Mr. Speaker. And I really think we can move on a lot smarter than that, given that we all say we are committed to getting this up and running.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Barritt, the Honourable and Learned Member from Devonshire South Central.

I now recognise the Honourable and Learned Member, Mr. S. Crockwell, from Pembroke West.

The Honourable Member has the floor.

Mr. Shawn G. Crockwell: Thank you, Mr. Speaker.

Mr. Speaker, very briefly, we certainly support this legislation. We applaud the Government for getting it to this point. In the spirit of modernisation, as we have been talking all day, Mr. Speaker, clearly this fulfils the goal that I was speaking about earlier in ensuring that we achieve good governance for the country. And this particular Bill certainly does that.

Mr. Speaker, also, as you know, when the Bill was first in the public domain for discussion, the major issue of disquiet was in reference to the lack of retroactivity. And so that was removed. That was certainly a part of our submissions with the BDA. And so I think the Government requires some form of applause for that as well, for taking those comments into consideration.

The only issue that we have . . . The Honourable and Learned Member that just took his seat, I

think, was quite comprehensive in his remarks and raised many of the concerns that we would have also raised. But the one issue is in dealing with the readiness of the Archive, Mr. Speaker, and if the Honourable Premier could address this.

When we had the consultation, it was raised by the Ombudsman that she had concerns that the Archive is not prepared to deal with the requests and to be able to satisfy the information that people will be looking for. As a result of the fact that the Bill is retroactive, people may be looking for information that is quite old and historic.

My question to the Premier is whether or not the Archive will be in a position to handle the requests which will be coming once this particular legislation comes into force, and going forward. And is that the reason why there is a two-to-three-year lag time?

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Crockwell, the Honourable and Learned Member from Pembroke West.

I now recognise the Honourable Member, Mr. W. Roban, Minister Roban from Pembroke East has the floor.

Minister?

Hon. Walter H. Roban: Thank you, Mr. Speaker.

Just a few brief comments, once again congratulating the Honourable Premier, and certainly my Party and Government for bringing forth such seminal legislation.

I did hear the comments of Mr. Barritt, and I know this is an area that has been of great attention by himself. But as I recall, the Progressive Labour Party spoke very clearly to this issue of opening up Government in 1998 in our own platform, and we made a clear declaratory statement which was unique and different from any election before around this. And so, not looking to steal any particular thunder from the Opposition on this, but clearly, perhaps it is just that we were both on the same page when it came to this issue, if the UBP platform spoke to this measure. But certainly the PLP was very keen to see transparency and opening up Government to the bright light of public scrutiny, which I believe was a line in our 1998 platform.

But I again congratulate the Premier for bringing this, and I did note some comments about concerns about the original draft that was made public. But as I recall, that was always a consultative draft and put into the public so that the public wish could be clearly heard and felt around how we should move forward with this issue, as it stood to transform the Government. And I think, despite the disquiet that was raised, that was always a part of this. I mean, it is, frankly, Public Access to Information, Mr. Speaker. Thus, the public should have had its rightful input as to how the Bill might look. It was put out. There was great public attention to certain issues. And, as we have seen, the Government has accepted it.

Here we now have a Bill. It certainly follows in the direction given, not only from a Ministerial level, but from the Cabinet, starting back with Dame Jennifer Smith to Alex Scott, and now to Premier Brown. So it is good that we have it. I believe, as Mr. Barritt, the Honourable and Learned Member, has said, this is going to, over time, transform the Government and how it operates.

But I hope that since it is noted that the impact of this is going to be quite tremendous, that when we do bring our budgets around the issue of the necessities of advancing the infrastructure of the Archive and the mechanisms that will mean to make this real, that we have certainly a sensitive and receptive ear and comment from the Opposition when those budgets do come, knowing that the only way that we are going to get some of the infrastructure in place is over time and with some investment in it. That is going to be required.

So I appreciate that their scrutiny of the budgets will always be very specific. But, certainly, I would hope they will be sensitive to what is necessary to really make this a lasting implementation and to become a part of the institution of governance of this country.

Again, congratulations to the Premier, and I look forward to seeing Public Access to Information become a reality.

Thank you.

The Speaker: Thank you, Minister Roban, the Honourable Member from Pembroke East.

Any further speakers?

No further speakers?

Mr. Premier has the right to reply.

Mr. Premier.

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Speaker.

Ever so briefly, the Honourable Members who have spoken have covered quite a bit of ground. There are certain comments or questions that were raised that I will try to respond to.

One has to do with the length of time. And I would like the Honourable and Learned Member, Mr. Barritt, to make sure that he can confirm the dates that he mentioned because I have been in place for less than four years, a little under four years. He mentioned that it had taken more than five to be moved since my predecessor left. So I did not quite get that. But the fact is that it has taken as long at it has taken. And I too wish that it could have been faster.

With respect to the issue of the future and how quickly we can move in the future, we said two to three years exactly for the reason that the Honourable and Learned Member Mr. Crockwell just touched on. We do have issues and challenges in the Archives,

and we are working to straighten those issues out before we can commit. It is also important for the Information Commissioner to be in place, get his or her arms around the project, before we make an announcement that commits us to a date certain. And that person will be in place before the end of this calendar year.

Mr. Speaker, I move that the Bill now be committed.

The Speaker: Thank you, Premier.

Any objection?

Agreed to.

The Speaker: Will the Honourable Member, Mr. W. Perinchief, from Pembroke Central take the Chair of Committee?

House in Committee at 10:08 pm

[Hon. Wayne N. M. Perinchief Chairman]

COMMITTEE ON BILL

PUBLIC ACCESS TO INFORMATION ACT 2010

The Chairman: The House is now in Committee on the Public Access to Information Act 2010.

The Minister in charge would like to move clauses.

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Chairman.

There are 66 clauses. I would like to move them in three parts. The first group of clauses will be clauses 1 through 21.

The Chairman: Yes. The Minister wishes to move clauses 1 to 21.

Any objections?

The Chairman: Carry on.

Dr. the Hon. Ewart Frederick Brown: Clause 1 is the Citation.

Clause 2 sets out the purpose.

Clause 3 sets out various definitions and interpretative provisions.

Clause 4 provides that the Act does not apply to records relating to the exercise of judicial or quasi-judicial functions by courts, tribunals, or other bodies. It also provides that the Act does not apply to records obtained by the Auditor General, the Human Rights Commission, the Information Commissioner, the Ombudsman, and the Director of Public Prosecutions in the course of carrying out their functions. The Act does apply to records relating to the general administration of those bodies or authorities.

Clause 5 requires a public authority to publish an Information Statement describing the organisation and functions of the authority and containing information such as the type of records held by the authority, the policies and procedures of the authority, and the name of a contact person to whom requests under the Act are to be directed.

Clause 6 sets out other information that is to be made public, such as a log of access requests, information on quarterly expenditures of public authorities, details of contracts entered into by public authorities over $50,000, and a list of positions and salaries of all public offices.

Clauses 7 and 8 would enable the Information Commissioner to provide guidance as to publication requirements in sections 5 and 6 of the Act and to order compliance with them.

Clause 9 provides that an order of the Commissioner has the effect of an order of the Supreme Court.

Clause 10 sets out the role of the Commissioner, generally, to encourage the publication of information by public authorities.

Clause 11 accepts from Part 2 any records that are exempt under the Act.

Clause 12 provides that every person who is resident in Bermuda has a right to be given access on request to records held by public authorities subject to the Act. Public authorities shall assist persons making a request and respond in a timely manner. A public authority shall not disclose the identity of a requestor and may not require that reasons for the request be given.

Clause 13 sets out the manner in which a request must be made and requires a public authority to acknowledge the request within five working days. The clause also provides for transfer of request to another public authority if it is more appropriate to that authority's functions.

Clause 14 requires a public authority to make a decision on the request within 28 days of receiving the request. It also provides for notice of the decision to be given and for the time when access to a record must be given after a decision is made to give access.

Clause 15 provides for extension of the time for making a decision for up to a further 28 days in certain circumstances.

Clause 16 sets out various circumstances of an administrative nature in which an access request may be refused.

Clause 17 sets out various ways in which access to a record may be given.

Clause 18 provides that, where a record contains information that is exempt under the Act, access to part of the record that does not contain the exempt information may be given.

Clause 19 gives a person a right to request that personal information in a record held by a public authority be amended. The public authority is required

to make a decision on the request within 28 days of receiving it. The period may be extended for a further period of up to 28 days. No fee is payable in respect of a request to amend personal information.

Clause 20 authorises the making of regulations subject to the affirmative resolution procedure, prescribing fees for the provision of access to records, but not for the making of a request.

Clause 21 sets out the test for determining whether disclosure of a record or its existence is in the public interest. All the exemptions in Part 4 are subject to the public interest test, except section 23, that is personal information with a limited exception; section 27, Cabinet Documents; section 34, Law Enforcement, with a limited exception; and section 36, Contempt of Court and Parliamentary Privilege.

The Chairman: Do any Members wish to speak to clauses 1 to 21?

I recognise the Honourable Mr. John Barritt.

Mr. Barritt?

Mr. John Barritt: Thank you, Mr. Chairman.

In clause 4, I did notice one change from the Act that was tabled for consultation. And that was the inclusion of the Human Rights Commission in those bodies that will not be subject to request for information unless they relate to administration. The list of bodies includes the Office of the Auditor General, the Human Rights Commission, the Office of the Information Commissioner, Office of the Ombudsman, and the Department of Public Prosecutions.

Perhaps just for the record, Mr. Chairman, we will say that that is one of the areas (I said earlier) that we disagree with. We would have everybody subject in all respects, unless it could be shown that the disclosure of information would be contrary to the public interest.

Mr. Chairman, I also wanted to comment. Perhaps the Premier can confirm this for me. When we come to the exemptions, Part 4, the Exempt Records, starting with [clauses] 27 through to 34, one of the things—35 as well—one of the things I notice is that, in most cases, after it said that they will be exempt from disclosure, there is a subclause in there that says "a record shall be disclosed if disclosure of it is in the public interest." And the use of the word "shall" is an improvement over the draft; it was "may" before.

But I notice that, while with respect to the ministerial responsibility it says "a record shall be disclosed if disclosure is in the public interest," after the Cabinet documents exemption that particular addition was not found there. It is in all the other exemptions. And I thought at the time, *That must be an oversight.* Because it is clearly intended throughout this legislation, as I read it, with respect to exempt records, that, yes, you set up these exemptions. But if you notice, all of those exempt categories have at the end of it, "and this record shall be disclosed if disclosure of it is in the public interest," but not with respect to Cabinet documents. And I thought, *Well, that must merely be an error or a mistake.*

An Hon. Member: It may be not necessary.

Mr. John Barritt: Well, it may be not. Maybe the Premier can speak to that because it struck me as, it may well be an oversight, and perhaps there is some rationale.

Now, Mr. Chairman, did the Premier move clause 40?

The Chairman: No. He moved from 1 to 21.

Mr. John Barritt: Well, I know he moved clauses 1 to 21, but he actually spoke to clauses 1 to 40, did you not?

The Chairman: No, clauses 1 to 21.

Mr. John Barritt: Oh, I beg your—oh, I jumped ahead then.

The Chairman: Yes.

[Inaudible interjections]

The Chairman: Are there any other questions, or questions, on clauses 1 to 21?

Mr. John Barritt: No. No, not from me, Mr. Chairman.

The Chairman: So, Minister, would you wish to move clauses 1 to 21 at this time?

Dr. the Hon. Ewart Frederick Brown: But, Mr. Chairman, yes, but after this—

The Chairman: After the amendments.

Dr. the Hon. Ewart Frederick Brown: After this I have a few amendments, very minor.

The Chairman: Yes.

Dr. the Hon. Ewart Frederick Brown: But I think that I would like to move the following amendments to the Bill, that clause 9 of the Bill be amended by deleting—

An Hon. Member: Mr. Chairman, it would be helpful if we could have the amendments.

The Chairman: Yes. Would the Sergeant-at-Arms just assist?

Dr. the Hon. Ewart Frederick Brown: That clause 9 of the Bill be amended by deleting the number one in parentheses.

The Chairman: So we leave it with simply . . . yes, right.

Dr. the Hon. Ewart Frederick Brown: Yes.

The Chairman: So it would read "9 and order issued" without the "(1)". It is superfluous. Is that correct? Right?

Dr. the Hon. Ewart Frederick Brown: Yes. Yes, Mr. Chairman.

The Chairman: Remove "(1)"? Do you see that . . . anyone else who is interested?

Carry on, Minister.

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Chairman.

The second amendment has to do with item 12 of the Schedule to the Bill, to be amended by deleting the words "the Head of the Department" and substituting the words "the Permanent Secretary who has supervision of the Department."

The Chairman: Would you repeat that, Minister?

Dr. the Hon. Ewart Frederick Brown: I am sorry. I am sorry. I am jumping. I am jumping. I am sorry.

Here it is. It is that clause 12(1) of the Bill be amended by inserting next after the words "who is" the words "a Bermudian or".

The Chairman: Yes. I see that.

Mr. John Barritt: Okay?

[Pause]

The Chairman: Yes. Carry on, Minister.

Dr. the Hon. Ewart Frederick Brown: And now I am through clauses 1 through 21. And I am going to move now clauses 22 to 48.

The Chairman: Does any Member wish to speak to the amendments as read by the Minister?

They do not.

Carry on, Minister, clauses 22 to 48.

Dr. the Hon. Ewart Frederick Brown: Clauses 22 to 48.

Clause 22 exempts records, the disclosure of which could endanger a person's health or safety.

Clause 23 exempts records that consist of personal information.

Clause 24 defines "personal information."

Clause 25 exempts commercial information.

Clause 26 exempts information received in confidence.

Clause 27 exempts Cabinet documents.

Clause 28 exempts records that would undermine Ministerial responsibility.

Clause 29 exempts records that would undermine the deliberative process of public authorities.

Clause 30 exempts records that could prejudice the operations of public authorities in various ways.

Clause 31 exempts records the disclosure of which could have an adverse effect on the financial interests of Bermuda or on the management of the economy.

Clause 32 exempts records the disclosure of which would prejudice the security or defence of Bermuda or international relations.

Clause 33 exempts records containing information relating to the responsibilities of the Governor, the disclosure of which would prejudice the conduct of public affairs.

Clause 34 provides for the exemption of various records relating to law enforcement and provides that certain types of information may be disclosed if it would be in the public interest to do so.

Clause 35 exempts records that would be exempt from production in legal proceedings on the grounds of professional privilege.

Clause 36 exempts records the disclosure of which would be in contempt of court or an infringement of Parliamentary privilege.

Clause 37 exempts records the disclosure of which is prohibited by any other existing statutory provision. The clause also provides for the Minister responsible for the Act to make an order subject to the affirmative resolution procedure to repeal, revoke, or amend any such provision. The clause further provides that any new statutory provision that prohibits disclosure of a record shall not have effect unless it specifically provides that it shall have effect notwithstanding the Act.

Clause 38 provides that a public authority may refuse to disclose whether a record exists if the record itself is or would be exempt.

Clause 39 requires a public authority to give notice to third parties where it intends to disclose a record that might contain information of a personal, commercial, or confidential nature that has been given to the authority by the third party or relates to the third party. The public authority shall consider any representations made by third parties before making the decision to grant or refuse a request for access to the record that contains the information.

Clause 40 provides that all exemptions in Part 4 expire after 30 years, except for the exemption for personal information and the exemption for records

the disclosure of which is prohibited by another statutory provision.

Clause 41 sets out the right of a requestor or a third party to apply for a review of decisions of a public authority relating to a request or for failure of a public authority to do anything within the time required by the Act.

Clause 42 provides a time limit for making an application for internal review.

Clause 43 provides that an internal review is to be conducted by the head of the public authority and must be completed within 21 days after receipt of the application for review.

Clause 44 provides that where the application is for review of a decision by the head of a public authority, it shall be referred to the Commissioner for review under Part 6.

Clause 45 sets out the procedure and time limit for making an application for review to the Commissioner.

Clause 46 authorises the Commissioner to attempt to mediate a resolution of a matter in respect of which an application has been made.

Clause 47 provides for the conduct of a review by the Commissioner.

Clause 48 provides for the making of a decision by the Commissioner.

The Chairman: Minister, you have indicated you were going to amend clause 25. Did you make those amendments, or do you wish to do them now?

Dr. the Hon. Ewart Frederick Brown: I would like to do them now.

The Chairman: Yes. Carry on.

PROPOSED AMENDMENT TO CLAUSE 25

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Chairman.

The amendment is that clause 25(2) of the Bill be amended by deleting the word "or" at the end of paragraph (a); and deleting the semi-colon and the word "or" at the end of paragraph (c) and substituting a full stop.

The Chairman: Yes, Minister. Right.

Does any Member wish to speak to the Public Access to Information Act 2010 as amended by the Minister?

Mr. John Barritt: Yes, Mr. Chairman.

The Chairman: I recognise the Honourable and Learned Member, Mr. John Barritt.

Mr. John Barritt: Thank you, Mr. Chairman.

I was just following the amendment, and it is, I think, straightforward and housekeeping, Mr. Chairman.

Can I just say that anyone listening, and certainly anyone who is reading this legislation, I think, will have some idea of how challenging it is going to be both in its interpretation and its application, because in Part 4 we come across all the exemptions. So, while the Act giveth, it also taketh away, Mr. Chairman. And it is not in all cases absolute.

That is why I ask that question again of the Premier as to why we do not have, under Cabinet Documents, the same subsection that we find under other exceptions that a record shall be disclosed if disclosure of it is in the public interest. I just contrast Cabinet documents. We have got it under Ministerial Responsibility that it will be disclosed of it is in the public interest. That is after stating the exemption, Mr. Chairman.

Similarly with respect to documents in the Governor's possession that may have anything to do . . . they too should be disclosed if it is in the public interest. So, too, is, after establishing legal professional privilege. And I think that is right and proper. That is the way it ought to go. And I am just curious to know why it is not applying to Cabinet documents, Mr. Chairman.

As I said earlier in my opening remarks, one of the things we have greatest difficulty with is the fact that (this is clause 37 now, Mr. Chairman) a record is exempt in its disclosure if its disclosure is prohibited by any statutory provision other than this Act. Again, we think that is wrong. Everything should be subject to disclosure unless it is shown that otherwise it would not be in the public interest.

But I note, Mr. Chairman, that the Minister is given the power by order to repeal any of those provisions in any of those Acts that might apply, and will do so under the affirmative resolution procedure. So I suppose there is an opportunity there, once this legislation gets up off the ground, to change and add to it. But as a starting principle, we would have liked to have seen it done differently.

I also made the comment with respect to third parties. While it is important to give third parties notice, I think we have set up a rather cumbersome process which allows them to add to the time of disclosure by having to give them time to consult and to make objections, when in fact, you know, unless it is done expressly in confidence, and rare must be the exception that you say that it is not subject to disclosure at some point when you do business with Government, the Government of Bermuda, Mr. Chairman.

Again, that is just an approach. It is a position of policy that is not taken here that I think ought to have been taken.

Finally, Mr. Chairman, with respect to the expiry of certain exemptions, the historical one, as the Premier mentioned in clause 40, certainly 30 years is

the standard. We believe the modern standard to be 20 to 15 years, and you have before you a proposed amendment to clause 40(1), which I move that we delete the number 30 and substitute the number 20.

The Chairman: Clear me up on this, Mr. Barritt. Is this deletion, this change to clause 41 one of yours?

Mr. John Barritt: Yes. That is mine, Mr. Chairman.

The Chairman: There is a proposed change?

Mr. John Barritt: Well, I am going to move the amendment, Mr. Chairman. I have given copies to the other side to amend it from 30 to 20.

[Inaudible interjection]

Mr. John Barritt: No, no. It is clause 40(1).

The Chairman: Subsection (1).

PROPOSED AMENDMENT TO CLAUSE 40(1)

Mr. John Barritt: Delete "30" and put in "20."

An Hon. Member: Instead of 30 years, have 20?

Mr. John Barritt: Yes. It is the modern standard.

Twenty to fifteen is the modern standard.

According to the people in the . . . actually, I do not know Cayman's right off the top of my head.

The Chairman: So would you repeat that [Inaudible]? You just said from 30 to 20, and are you now changing the—

Mr. John Barritt: No, no. Thirty to twenty.

The Chairman: You are saying from 30 to 20?

Mr. John Barritt: Yes.

The Chairman: Does the Minister wish to make a comment at this time on that proposed amendment to clause 40(1)? Or would you want to take it on advisement, Mr. Minister?

Dr. the Hon. Ewart Frederick Brown: Mr. Chairman, I did not quite hear you. Oh, yes, yes.

The Chairman: The proposed amendment by the Honourable and Learned Member, Mr. John Barritt. In clause 40(1), would you like to take it on advisement that the number "30" be deleted and substitute the number "20"?

Dr. the Hon. Ewart Frederick Brown: Well, I do not think he is asking me to take it under advisement.

[Inaudible interjections]

The Chairman: He has moved it as an amendment.

Dr. the Hon. Ewart Frederick Brown: Yes. He wants a vote on it, I think.

Mr. John Barritt: Do you accept it or not?

Dr. the Hon. Ewart Frederick Brown: No.

The Chairman: You do not accept it?

Dr. the Hon. Ewart Frederick Brown: No. We cannot accept that. In the UK, it is 30. And we would very much like to be consistent, leave it as it is.

[Inaudible interjection and laughter]

The Chairman: Thank you, Minister.

Mr. Barritt, do you, with the position that the Minister has taken, now wish to take a vote on this amendment?

Mr. John Barritt: Well, you could to that very quickly. They have the numbers, Mr. Chairman. You can say Aye and Nay and that is the end of it. I do not want us following; I want us leading, Mr. Chairman.

The Chairman: Those in favour of the amendment? Those against?

AYES and NOES.

The Chairman: The Noes have it.

[Amendment to clause 40(1) of the Public Access to Information Act 2010 failed.]

The Chairman: We carry on.

I also noticed, if I was not mistaken, Minister, I go back to this. Item 12 of the Schedule. We have not moved the Schedule yet.

[Inaudible interjections]

The Chairman: Well, we will get to that later, then. In that case, Mr. Minister, there is a Member on his feet. I believe that he wishes to speak to clauses—

Dr. the Hon. E. Grant Gibbons: The clauses that the Honourable Member has moved so far.

The Chairman: Yes.

Dr. the Hon. E. Grant Gibbons: Yes, now that we have dealt with the amendment.

The Chairman: To which particular clause do you wish to speak?

Dr. the Hon. E. Grant Gibbons: Well, I am not sure what we are up to, but from 21 up to 48. I have a couple of questions for the Honourable Member in that section.

The Chairman: Right. I recognise the Honourable Dr. Gibbons.

Carry on, Dr. Gibbons.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Chairman.

Let me just start with clause 37. My honourable colleague, Mr. Barritt, touched on it and, I think, made the point. This is disclosure prohibited by other legislation. Clause 37(1) says, "A record is exempt if its disclosure is prohibited by any statutory provision, other than this Act."

Just to piggyback on what my honourable colleague said, clearly there must be a slew of other Acts that are currently in place that prohibit disclosure.

And I guess the question I have for the Honourable Member is . . . and this is obviously a catchall provision here. Will the Government start to work on this prior to the commencement day? Or is this going to take years to sort of work through all these things, and we have to come back to the House every time there is something which requires some other piece of old legislation that prevents disclosure? Is there going to be any proactive approach here, or is this likely just going to be a discovery process over time? That is one question.

I would like to just . . . We have been fairly dry so far. And I would just like to check on something in clause 24. This is the issue of personal information. And under clause 23, it says, "Subject to the provisions of this section, a record that consists of personal information is exempt from disclosure."

In clause 24, and particularly clause 24(2), it says, "But 'personal information' does not include– [(a)] information about an individual who is or was an officer or employee of a public authority that relates to the position or functions of the individual;"

I am just curious, Mr. Chairman. Would the Honourable Member say that, for example, job reviews of an individual, a public employee, or somebody in a quango, would therefore not be considered to be personal information? In other words, a performance report . . . it sounds to me as though that would be accessible under this and would not be included under the excluded personal information. That is the second question.

The next one is clause 27, Cabinet documents. I think we on this side are sensitive to this because some of us, having been in Cabinet, understand that you do not, obviously, want to basically impede the free discussion within Cabinet. But under 27(1)(a) it says, "a record that has been submitted to the Cabinet for its consideration or is proposed by a Minister of Government to be so submitted, being a record that was brought into existence for the purpose of submission for consideration by the Cabinet;"

The concern we have is, we can understand where a Cabinet paper, you know, or maybe a draft Cabinet paper should not be disclosed for the 20 or 30 years until the time elapses. But there is an awful lot of information that is submitted to Cabinet that may be a contract or it may be a lease or things of that sort. And the question is . . . I just want to get a little bit of clarification here. And I am hoping that those sorts of issues would not be, essentially, blocked from disclosure simply because Cabinet has talked about them at some point.

Because, clearly, a lot of the discussion over the last few years has spoken about leases and things of that sort, and to sterilize that by simply having Cabinet talk about it would be inappropriate, I think.

The Honourable Member is saying no. Okay, good.

Under clause 29, Deliberations of Public Authorities, clause 29, it says, " . . . a record is exempt from disclosure if it consists of information, the disclosure of which would undermine, or could reasonably be expected to undermine, the deliberative process of a public authority, including free and frank discussion and provision of advice in the course of that process."

The obvious question that comes to mind, Mr. Chairman, is, Would this disclosure exempt Minutes of a public authority? Because clearly, Minutes relate to decisions and things of that sort. There probably would be a number of individuals who might be interested in what a public authority—let us say Bermuda College—would have in its Minutes about decisions that were taken. Are Minutes excluded, as far as the Honourable Member is concerned? That is clause 29.

And I think that was . . . yes, Mr. Chairman. Thank you. That was it.

The Chairman: Does the Minister wish to respond?

I recognise the Minister.

Dr. the Hon. Ewart Frederick Brown: Mr. Chairman, the first thing is that I would like to reassure Members of the House who need it that we are going to move as quickly as we can to review other legislation that has an impact on this. No, we are not going to sit and wait until we get the impact one by one on other legislation.

The issue about the Cabinet documents, Mr. Chairman, I think we have an understanding, as I interpolated. I think that there will be issues in this legislation that are going to be tested. We cannot predict now which ones they are. We are starting off with a document that we think is a strong document. But it is the first time. So I cannot stand here and predict eve-

rything that will happen with this legislation. But rest assured that the intentions are pure.

The Chairman: Thank you, Minister.

[Inaudible interjection]

Dr. the Hon. Ewart Frederick Brown: And I do not know about Minutes of public authorities. I do not know the answer to that; I will seek to find it.

The Chairman: Thank you, Minister.

Does any other Member wish to speak to the amendments, I think, from clauses 1 up to 40?

Mr. John Barritt: Yes. I am just going on clause 38. It is one I meant to comment on, Mr. Chairman.

The Chairman: We have already been back on that.

Mr. John Barritt: We have not passed that yet. We are still on . . . clause 38 is still in the ones we are talking about, yes?

The Chairman: Yes.

Mr. John Barritt: And I think it illustrates sometimes how tortuous and absurd we can get on these things, when you read clause 38(1). It says, "A public authority may refuse to disclose whether a record exists if the record itself, if it exists or were to exist, is or would be an exempt record." And then clause 38(2), "The existence or non-existence of a record shall be disclosed if disclosure of it is in the public interest."

I would have thought, you know, we really could have done away with that particular clause, Mr. Chairman. And I sometimes think this highlights the lengths—the ridiculous lengths—in which we go, Mr. Chairman. Maybe the Premier will be handed a note to say there is a good reason why—

The Chairman: Would you please repeat that for clarity? Because you certainly confused me.

Mr. John Barritt: I know! It is confusing, Mr. Chairman. I am not making it up. I am just reading what is there.

It says, "A public authority may refuse to disclose whether a record exists if the record itself, if it exists or were to exist, is or would be an exempt record."

I mean, I think they should simply have to say whether they have got the record or not. And then it would fall to be decided by an exemption. I think sometimes we go to absurd lengths here, Mr. Chairman.

But that is how complicated this Act is. And I guess some people are going to require a lawyer, and when the Information Commissioner gets on board, to start to translate this into everyday language that people can understand.

The Chairman: I am rather pleased that a lawyer pointed that out, Mr. Barritt, the Honourable and Learned Member, Mr. Barritt.

Mr. John Barritt: That is part of my job, too, Mr. Chairman.

The Chairman: Thank you, sir.

Mr. John Barritt: Thank you.

The Chairman: Minister, I do not know if that requires an answer, but you may wish to make some comment on that.

Dr. the Hon. Ewart Frederick Brown: Well, Mr. Chairman, let me just mention first, I have some information, legal advice concerning Minutes. Minutes are exempted only if they would undermine the public authority operations.

And, you know, clause 38, we find similar provisions in other jurisdictions. Again, you know, as the Honourable and Learned Member is a lawyer, and he should see that clause 38 is just the kind of thing that you would expect. I am sure that it has some practical application, although there are those of us who might not see it in the first instance.

[Inaudible interjections and laughter]

The Chairman: In any case, it seems to be innocuous enough that you do not wish to make it an amendment, Mr. Minister, at this point.

Dr. the Hon. Ewart Frederick Brown: No. I think it will have to stay there until it is proven useless.

The Chairman: Thank you.

[Laughter]

The Chairman: Thank you, Mr. Minister.

Dr. the Hon. Ewart Frederick Brown: Mr. Chairman, may I?

The Chairman: Yes, you may.

Dr. the Hon. Ewart Frederick Brown: I would like to move clauses 49 to 66.

Clause 49 provides for judicial review of a decision of the Commissioner.

Clause 50 establishes the Office of Information Commissioner and provides for the appointment of the Information Commissioner.

Clause 51 sets out the mandate of the Commissioner.

Clause 52 makes provision for the appointment of staff.

Clause 53 requires the Commissioner and staff to maintain secrecy in respect to matters that come to their knowledge in carrying out their functions.

Clause 54 provides the Commissioner and staff with immunity from civil or criminal proceedings for anything done or omitted to be done in good faith in carrying out their functions under the Act.

Clause 55 provides for the funding and the keeping and auditing of accounts of the Office of Commissioner.

Clause 56 sets out the powers of the Commissioner in conducting reviews.

Clause 57 provides for the Commissioner to carry out an investigation and prepare a report on the compliance by public authorities with the Act within two years after this section comes into operation. The Clause also provides that the Commissioner may carry out other investigations and prepare other reports from time to time.

Clause 58 requires the Commissioner to prepare an annual report on the operation of the Act, including the number of access requests and how they have been disposed of, and the number of times the various exemptions were invoked. The clause also requires public authorities to provide such information to the Commissioner as pertains to their authority.

Clause 59 authorises the Minister to make regulations subject to the affirmative resolution procedure.

Clause 60 requires the Minister, following consultation with the Commissioner, to establish codes of practice for public authorities regarding the administration of the Act. The clause also requires the Minister, in consultation with the Commissioner and the Archivist, to establish codes of practice regarding the maintenance and management of records of public authorities so as to facilitate access to them.

Clause 61 places an obligation on the Minister to ensure that appropriate measures are taken by public authorities with regard to training of staff and organisational arrangements to facilitate compliance with the Act.

Clause 62 requires public authorities to designate one of its offices as the person to whom access requests may be directed.

Clause 63 provides that no civil or criminal proceedings shall be brought against any public authority or its employees or agents in respect of the disclosure or non-disclosure of any record under the Act or any action taken or omitted to be taken under the Act unless it is shown to be in bad faith.

Clause 64 makes it an offence to alter, destroy, or conceal any record, punishable on summary conviction by a fine of $10,000 or six months imprisonment or both.

Clause 65 makes it an offence to knowingly act in contravention of the Act, punishable on summary conviction by a fine of $5,000 or six months imprisonment or both.

Clause 66 provides for the Act or any of its provisions to come into operation on a day or days to be appointed by the Minister by notice published in the *Gazette*.

The Chairman: Correct.

Does any Member wish to speak to clauses 49 to 66?

Minister, do you wish now to move the Preamble?

Dr. the Hon. Ewart Frederick Brown: Before that, Mr. Chairman, I would like to move the Schedule.

The Chairman: The schedule, oh, yes.

AMENDMENT TO SCHEDULE

Dr. the Hon. Ewart Frederick Brown: And I have an amendment for the Schedule.

The Chairman: You have an amendment to the Schedule.

Dr. the Hon. Ewart Frederick Brown: Yes, sir.

The Chairman: Correct.

Dr. the Hon. Ewart Frederick Brown: That item 12 of the Schedule to the Bill be amended by deleting the words “the head of the department” and substituting the words “the Permanent Secretary who has supervision of the department.”

The Chairman: All right. Does any Member wish to speak to that amendment?

No?

Carry on, Minister.

Dr. the Hon. Ewart Frederick Brown: Then, Mr. Chairman, with your permission, I would like to move the Preamble.

The Chairman: Including the Schedule?

Dr. the Hon. Ewart Frederick Brown: I would like to move the Schedule, the Preamble, and move that the Bill be reported to the House.

The Chairman: Yes.

Those in favour, say Aye. Those against, say No.

AYES.

The Chairman: The ayes have it.

[Motion Carried: The Public Access to Information Act, 2010, was considered by a Committee of the whole House, passed with amendments, and will be reported.]

House resumed at 10:47 pm

[Hon. Stanley Lowe, Speaker, in the Chair]

REPORT ON BILL

PUBLIC ACCESS TO INFORMATION ACT 2010

The Speaker: Is there any objection to the Report of the Committee as amended?

Agreed to.

The Speaker: I am catching the eye of the Minister, Minister Burgess. Yes?

Hon. Derrick V. Burgess, Sr.: Yes, Mr. Speaker.

The Speaker: With the indulgence of the House.

Hon. Derrick V. Burgess, Sr.: Thank you, Mr. Speaker.

Mr. Speaker, I move that Standing Order 21 and—

The Speaker: Twenty-three.

Hon. Derrick V. Burgess, Sr.: Twenty-three?

SUSPENSION OF STANDING ORDER 21

The Speaker: Twenty-three, yes. That is the Order, yes. (I said 21; it was 23.)

With the indulgence of the House, the Minister is going to request that he do it forthwith.

Carry on, Minister.

MOTION

PROPOSAL FOR EXTENSION OF LEASE AGREEMENT REGARDING LAND AT DANIEL'S HEAD IN SANDYS PARISH

Hon. Derrick V. Burgess, Sr.: Thank you, Mr. Speaker.

I move that Standing Order 21 be suspended to enable me to move, for consideration of the proposal by the Government, for an extension of the lease agreement regarding land at Daniel's Head in Sandys Parish.

Mr. Speaker, I move that consideration be now given in the House to a proposal by Government for an extension of the existing lease agreement between the Bermuda Land Development Company Ltd. and IRC Sandys Ltd. with respect to 7.829 hectares of land situated at Daniel's Head in Sandys, as shown hatched in red on Works and Engineering Drawing number 55-10-046-362 for the 9 Beaches Resort development under the terms and conditions as set out in the attached land lease information and in accordance with the provisions of section 9(3) of the Base Lands Development Act 1996.

Mr. Speaker, at this time, I am filled with optimism and expectation regarding an exciting new initiative in Bermuda's tourism sector, the $80 million expansion, upgrading, and redevelopment of 9 Beaches Resort at Daniel's Head in Sandys.

Specifically, Mr. Speaker, I rise seeking the approval of this Honourable House to extend the existing lease between the Bermuda Land Development Company Ltd., which falls within my remit as Minister of Works and Engineering, and IRC Sandys Ltd., with respect to 7.829 hectares at Daniel's Head, Sandys, the site of 9 Beaches Resort, an area shown in the lease plan outline and hatched in red, Drawing 55-10-046-362 that Honourable Members have before them today.

Mr. Speaker, I am also asking Honourable Members to approve the extension of the lease between the BLDC and IRC Sandys Ltd. to a period of 117 years, less three days, for a total of $15 million in a series of payments over the first eight years and three annual interest payments of $100,000 per year beginning with the first anniversary date and ending on the third anniversary date.

Other information pertaining to the lease extension is set out in the documents that Honourable Members have before them this evening.

Mr. Speaker, may I at this outset seek the indulgence of the Honourable Members upon bringing this lease extension request forward on the last sitting day of Parliament? When I addressed this Honourable House seven weeks ago, I stated that in accordance with the provisions of the law, the request for an extended lease between BLDC and IRC Sandys Ltd. would be brought to this Honourable House for approval before the closing of the current session of the legislature.

Regrettably, a series of unavoidable delays prevented us from bringing the matter forward for the legislators' consideration last month as we had hoped. Our decision to proceed with the matter on the last sitting day resulted principally from our wish not to delay until the fall an initiative that has the potential of realising such great rewards for Bermuda, not only for our chosen sector, but for the community generally.

What is more, the developer is ready to break ground as we speak. So I thank most sincerely Honourable Members on all sides of the House for their

willingness to consider such an important request. I thank, in particular, Ms. Patricia Gordon-Pamplin, JP, MP, Shadow Minister of Works and Engineering, for the careful attention to this matter that she has given at such short notice. In fact, Mr. Speaker, it was Ms. Gordon-Pamplin who drew our attention to the fact that page 3 had been omitted from the Memorandum of Understanding between BLDC and the IRC Sandys Ltd. that was distributed to Honourable Members earlier today. Honourable Members will now have received a corrected version of the MOU.

At this juncture, Mr. Speaker, I draw Honourable Members' attention to other matters in the MOU that require clarification. The reference to 118 years, less three days, under the Terms of the Lease Agreement 4.1, on page 4, should read "117 years, less three days." Further, a total payment of $14 million payable over eight years in 4.2.2, page 4, excludes the $1 million referred to in 4.2, page 4. The total payment, therefore, is $15 million Bermuda dollars.

Mr. Speaker, there can be no doubt that 9 Beaches Resort is located in one of the most beautiful and serene spots on earth. We know that a first-class product will unfold there over the next few years, and we look forward to the countless visitors enjoying this unparalleled, magnificent hospitality for years and years to come. The Government therefore expresses its gratitude to IRC Sandys Ltd. and its principal investors Nordica Development and BPDL Ltd., for the progress made towards developing a truly first-class facility, one that will not only enhance the tourism product on the West End of the Island, but one that will do so much for the Island's tourist product generally.

Mr. Speaker, in the first instance, our construction industry will receive a major boost as a result of this initiative. There has been a recent downturn in that industry, and Bermudian construction workers will rejoice at the new opportunities that the 9 Beaches redevelopment initiative will bring.

Mr. Speaker, IRC Sandys Ltd. is headed by a gentleman particularly well known to the Honourable Members who sit opposite me. I refer, of course, to former Tourism Minister, and very successful hotelier, Mr. David Dodwell. At the moment, he is in the United States where yesterday he received an award for the outstanding success of his property in Nevis. We offer our sincere congratulations in that regard.

Mr. Dodwell's fellow IRC Sandys Ltd. shareholders comprise experienced Bermudians and American hoteliers, developers, and investors.

Mr. Speaker, IRC Sandys Ltd.'s principal investors are a Canadian company, Nordica Development Ltd., a specialist developer and real estate management company headed by Mr. Stephane Boivin; and BPDL Ltd., a company specialising in design production, transportation, and installation of pre-cast concrete elements. Recent BPDL Ltd. projects include the new Yankee Stadium in New York City, the Bell Centre in Montreal, and a new building at Harvard Law School in Cambridge, Massachusetts.

Mr. Stephane Boivin, President of Nordica Development, stated recently: "9 Beaches is the answer for our development objectives in Bermuda. We believe this breathtaking site, coupled with our master plan development and construction expertise, will combine to give both Bermudians and visitors a great new leisure option. The Bermuda Government has been a pleasure to work with, and as we work through the planning stages over the coming weeks, we look forward to mutually agreeable solutions to maintaining the same marine-centric nature of the Daniel's Head site and Sandys community in general."

Mr. Speaker, we are also indebted to the board and senior staff of the BLDC for advancing the extended lease agreement arrangement and for working so closely with Mr. Dodwell and his team as they crafted an MOU that would meet the needs of the developers and the BLDC. The extended lease clearly demonstrates the core mandate of the BLDC to enhance the company's real estate to foster Bermuda's tourism and to promote job growth for all, all clearly for the good of the people of Bermuda.

The BLDC and IRC Sandys Ltd. have agreed on a mutually satisfactory way forward. They together have charted a course that can only be for the betterment of Bermuda and her people.

Mr. Speaker, the submission before this Honourable House at this time requests a lease extension of 117 years, less three days, the maximum period allowed in accordance with the current provisions of the Base Land Development Act 1996, which has a 2127 end date. From the outset, IRC Sandys Ltd. requests an extension of 262 years, a similar arrangement to that which is in place for the Park Hyatt development at the site of the former Club Med Hotel in St. George's.

A 262-year lease at this time could not be contemplated in the absence of amending the Base Lands Development Act 1996. However, Honourable Members are advised that it is the Government's intention to bring forward an amendment to the Base Lands Development Act 1996, whereby it will be possible to extend the 117 years, less three days, lease for a further 145, for a total of 262.

Mr. Speaker, following receipt of legislative approval for the requested lease extension, IRC Sandys Ltd. will be requesting consideration for a number of concessions pursuant to provisions of the Hotel Concessions Act 2000. The requested concessions will include relief from customs duty in respect of any building materials, furnishings, fixtures, and equipment which are necessary for the building, furnishing, and equipping of the hotel; exemption from hotel occupancy tax; exemption from payroll tax; and exemption from land tax.

Mr. Speaker, IRC Sandys Ltd. will also be requesting exemption through the exemption that is en-

joyed by the BLDC for the acquisition of the development lease, and will include the added value of the final development. This kind of concession was also made available to the developers of the Park Hyatt Resort. Honourable Members are advised that the developer will seek a number of additional undertakings during the development process for the 9 Beaches Resort.

Mr. Speaker, I am obliged to remind the Members of this Honourable House and the people of Bermuda that the public's access to the Daniel's Head National Park and its adjacent beaches will not be interrupted as a result of this lease extension request.

Article 17(1)(f) on pages 4 to 6 of the 1996 ground lease between the BLDC and Destination Villages will continue to apply in the case of the extension. That Article reads as follows: "Throughout the term as the same may be extended as herein provided tenant shall permit public access and provide a minimum of 25 public parking spaces for motorcycles in respect of both Daniel's Head National Park and the adjacent designated beach area and permit reasonable public use of the adjacent designated beach area. The public use of the designated beach area (1) will be subject to rules" and, in fact, from time to time in respect to the project to the extent such rules are also applied generally to resort guests, and "(2) may be restricted or prohibited from 10 p.m. until sunrise, irrespective of the general applicability to resort guests during such period."

Again, Mr. Speaker, since the current lease is being extended to 117 years less three days, there will be no change to the provision in Article 17. Additionally, the BLDC will not agree to this provision being removed from any new lease that will be executed in the future. Although its perimeters such as number of parking spaces to be allocated may be modified, the spirit and intent of the provision will not change.

Mr. Speaker, I conclude these remarks with a reaffirmation of the Government's view that the proposed expansion, upgrading, and redeveloping of 9 Beaches Resort at Daniel's Head, Sandys, is a critically important opportunity for Bermuda, one that will not only provide another jewel in the tourism crown, but one that will result in benefits for our Island as a whole.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister Burgess.

Any further speakers?

I recognise the Honourable Member, Mrs. Gordon-Pamplin, from Paget West, Shadow Minister of Works and Engineering.

The Honourable Member Mrs. Gordon-Pamplin has the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Speaker.

We arrived at this place tonight being asked to approve an extension to an existing lease, which was the subject of a novation agreement that was tabled in this Honourable House in July of 2004. What this extension will do, as the Honourable Minister indicated, is to permit the outside date covered by this lease to be increased from a period of the balance of 54 years on the original lease, plus a 35-year option to extend (so a total of 89 years), going up to 117 years.

Mr. Speaker, before I get into the approach that we have had to take respecting this, I can tell you that the politician in me says that we should be flogging the Government every step of the way for this. It was, I would think, about six or seven weeks ago that the Minister made representation that it was his intention to table this lease in this Honourable House for consideration of Members. And that amount of time actually expired.

You heard the Minister indicate that there were a myriad of problems that existed from the date of his commitment up until two days ago, at which time I started to think, Mr. Speaker, *What are we going to do?* Because I knew that the Minister had indicated it was his intention to take this up. I actually took the initiative to send an email to the Permanent Secretary to say, *What is happening with this? I have not seen it. It has not been tabled. Are we going to have a summer break this summer? And if not, well, that is fair enough. We will continue to go through the processes. But where is the legislation? Where is the consideration Order?*

To which the Permanent Secretary, who, I have to say, has been an absolute Godsend in this process—

[Inaudible interjections and general uproar]

Mrs. Patricia J. Gordon-Pamplin: —was able to respond. He was able to respond, and it is in that light, Mr. Speaker, that the politician in me actually takes a back seat to the Bermudian in me. Because I can tell you that the Bermudian in me recognises the importance of this action tonight, that it is able to pass the House of Assembly. But I can tell you, notwithstanding that every fibre of my being tells me that I have to support this, it was like pulling hen's teeth to get the information.

Over a two-day period of time, there were some 18 emails exchanged just trying to seek information. This is not the way to run a railroad. We recognise, Mr. Speaker, that there are times when extenuating circumstances preclude us from having things in a nice, tidy package at the appropriate time. But when something has the urgency, then Government has a responsibility to ensure that they put their finger on the pulse of things to ensure that things are tabled in due course.

Mr. Speaker, you will note that this particular lease, the extension thereof, is a fallout from a lease

that existed between Bermuda Land Development Company Ltd., and Destination Villages, all 80-some pages of it that I was apprised of and given a copy of yesterday.

Mr. Speaker, I can say that—

The Speaker: But we know you are a fast learner.

[Laughter]

Mrs. Patricia J. Gordon-Pamplin: I am a fast learner. I am really very good, I have to tell you. Thank God I don't have a life, because otherwise I would have had grave difficulty getting through this documentation in order to reach a stage today where we could actually be here.

But having read this, it occurred to me that this ground lease was between the BLDC and Destination Villages, which was the original lessee in this instance. So, looking at what the Minister was asking us to consider, IRC . . . it occurred to me that I had no connection between this main head lease and IRC. So when you are asking me to give IRC an extension—and I do not know who IRC is, given the documentation in front of me—I then had to start asking for information.

Absolutely not the way to run a railroad! However, the Permanent Secretary was as accommodating as was possible under the circumstances. And you will recall, Mr. Speaker, so interested were we as a team in trying to ensure that this got done, that you will recall that I actually appeared here at the Honourable House trying to find copies of the IRC connection, thinking it might be in the House records. And it was not to be.

So, we asked the question, *Please give us the novation agreement, which was tabled in this Honourable House in July of 2004* knowing that that was the connection piece. You had the master lease, but at some point in time there was a new entity. That new entity was created by that July 2004 lease. So, I asked for it. And it was sent to me, along with a copy of the Memorandum of Understanding. And the novation lease actually arrived sometime this evening, truth be told.

And I hear a question: *If she is supporting it, why is she going on like this?* Because I think that, but for our good graces, we would be depicted in the press as being an uncooperative Opposition. But I believe that it is important to say that when things have a national interest at heart, we show that we try our best in order to be able to accommodate, notwithstanding the inconvenience.

Having said that, we looked at the Memorandum of Understanding, which was given to us in addition to the other documentation that was made available to us. And as I read through the Memorandum of Understanding, there was a page missing—very sloppy, shoddy work.

What I found interesting was that the PS was willing to share with me that in fact that document had been on their files and nobody had even noticed that there was a page missing.

The Speaker: You are a good reader.

Mrs. Patricia J. Gordon-Pamplin: I am not only a good reader; it is my responsibility. And it is in that vein, Mr. Speaker, that I have to highlight the necessity of us working together as Government and Opposition for the better good of Bermuda.

So, as you will know, we actually had the new agreement tabled this morning that gave us—the Memorandum of Understanding, which gave us the missing page. Because I believe it is important, Mr. Speaker, when we are extending to an entity a period of time of public property through the BLDC, it is important for me to understand the terms and conditions under which the first permit was granted. And it is through that novation agreement that I was able to have a look and see, *What were the terms and conditions, and have they been complied with?*

Because I would be hard put to say, *Yes, allow us to give an extension to 117 years* if in fact the IRC had not conformed with the terms and conditions of their original short period. Some having had the opportunity to read through that, Mr. Speaker, I am satisfied that IRC has fulfilled the terms and conditions of their original novation agreement. And that brings me to the lease information which is going to be tabled, which has been tabled, and which we are presently discussing. Because what will happen at the end of this, there will be a deed of variation that will be signed in order to regularise the new terms and conditions of this lease.

Mr. Speaker, I have a few questions, and I am sure the Minister would be willing to respond. And that is with respect to the lease information that came to us, because the lease agreement itself, as I said, is going to be given for an extension for the remaining period of the lease, to take it up to 117 years. But the terms of the lease agreement to be signed between BLDC and the developer, according to the lease information that the Minister has shared with us, it says, "it will include" the following conditions.

And I am going to suggest that the Minister would want to substitute "will include" to state "are subject to," because "will include" suggests that there are some other conditions that might come in there. And I want to make sure that what we approve in this Honourable House is tight and definitive.

So what I will ask the Minister to do, recognising that there is still work to be done here to ensure that this Honourable House receives a copy of the final document once it is signed, sealed and delivered, because we recognise we have to support this for the better good of the project and of Bermuda.

Now, you will know, Mr. Speaker, that . . . Let me just go to clause 7, very quickly, of the Lease Information Agreement, which is very, very, very poorly worded. And I just think that I will make a recommendation, just from English and from a good-reading perspective, for the PS and the Minister to consider ensuring that the verbiage is grammatically correct and absolutely appropriate. As it stands, it is deficient.

[Inaudible interjection]

Mrs. Patricia J. Gordon-Pamplin: Absolutely. Absolutely! He is the best of the best. I tell you, he is going to be my PS when I win the Government, and there is no question about that, and soon come.

[Inaudible interjections and laughter]

Mrs. Patricia J. Gordon-Pamplin: One of the things that the PS made available to me, Mr. Speaker, was a presentation that had been made by IRC Ltd. to a Cabinet subcommittee on tourism development, and not that they were sharing information or telling tales out of school, but it had, as a backdrop, an overview of what was permitted with respect to IRC and BLDC and what undertakings were needed to be made on both sides.

The first thing that struck me was, having made reference to the Memorandum of Understanding, that a condition was that the MOU is complete. When I looked at the MOU itself, Mr. Speaker, it very clearly pointed out that the MOU was signed on the 13th of May, with an expiry date 60 days hence, which would have brought us up, in fact, to the 12th of July. So, by the time this was being tabled, the expiry period or the period referred to as a condition, had already expired.

Now, I know that the Government was still intending to continue these negotiations in good faith. And I believe that that 60-day limit will perhaps be extended or revised in the further negotiations. But I think it is important to point out that the 60 days has already expired. So, effectively, IRC could, as terms and conditions of their agreement, walk away. And it is based on that urgency that we agreed that we would discuss this.

Now, according to the time frame that was being requested, the lease agreement was meant to be completed by mid-July. As I said, that would have been the 12th of July—13th of May plus 60 days. But it also said that an SDO had to be approved by Parliament. Now, we are seeing here today the extension of the lease, but we do not see the SDO. So I am going to ask the Minister if he could advise this Honourable House of the position, the progress relating to the SDO, because if that is part and parcel of what the lessees are expecting, then certainly they need to know, and this Honourable House needs to know, where do they stand in that respect?

There were some other conditions that have been highlighted in either the novation agreement or the lease information agreement. And that is with respect to . . . The Minister indicated there was a $15 million consideration. And the Minister alluded to the timing within which that $15 million will be paid. And in addition, there was a $100,000 for three years additional payment.

I am just trying to understand (if the Minister can help) what exactly is that $15 million? Is that ground rent, or what is the $100,000? What is it called? How do I know what that $15 million is meant to pay for? And if the Minister could respond to that, I would certainly be appreciative.

Mr. Speaker, I would also like to ask the question respecting . . . (Just give me one second, Mr. Speaker. There we go.) I have asked about the SDO, $15 million: What is it for? Is it ground rent? Is it definitive?

Will there be any further revenue that will inure to the BLDC after the initial period of eight years and $15 million have expired? So if I understand what the $15 million is, then I can get an understanding as to what the long-term financial implication will ultimately end up being.

And my guess, in terms of the development itself, because we do not have a whole lot of detail . . . maybe the Minister might be willing to share with this Honourable House what type of development we are dealing with. Are we talking about fractionals, as we have seen in other developments? Or is this something that is just totally different and apart from anything that we have seen already?

We know that the Minister in his statement has indicated that there will be necessary concessions under the Hotel Concessions Act, and we realise that that is going to be done based on application. But I just wanted to know that, in the process of—the fact that we are on this very dicey, slippery slope between whether the developers are still on board or not—that once the project commences, is there the possibility for Bermudians to be included on the actual development? I think that this is an ideal opportunity for . . . the hotel is going to be closed, and they could possibly absorb employees who would normally be working in the hotel to ensure that there is some ability for them to work, as we speak.

Mr. Speaker, I think those are mainly the questions that I wanted to ask. But I think that, if we can be assured that whether or not the House is in session, if the Minister would be willing to make available to us the documents, the final documents for scrutiny. And I will tell you the reason why. It could be very cynically said that the reason why we have agreed to support this lease extension is because the Honourable Minister indicated that one of the principals involved was a former colleague of ours. And I can tell you, Mr. Speaker, that it is my responsibility to give due diligence to every document of which we

have, to have sight in order to approve information, in order to get comfort that what we are approving is appropriate.

So I will be willing to say that not *because of* any former associations, but *in spite of*, every document that comes before my eye will be scrutinised intensely, because I know that there are other developments coming down the pipeline, and I do not want for one person to say that you did not give this particular project its full scrutiny, but yet you want to ensure that you give this other project full scrutiny. It is very, very important to say, Mr. Speaker, that whatever we do will be consistently done. And we will look at information for the right reasons. We will scrutinise it to ensure appropriateness, irrespective of who the applicants are. And I believe that that is very important to be said.

With that having been said, Mr. Speaker, and hoping that the Minister will have the opportunity to respond to the questions that I had, I have no further comments respecting this, and just basically to say that we do support the intent. We support the development, and we certainly wish well to the Government in completing these negotiations, and in fact to the developers in ensuring that they are able to break ground at the time that they had planned, within the time frame, bearing in mind that there is still an SDO that is still dangling out in the air, for which we do not yet have an answer.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mrs. Gordon-Pamplin, the Honourable Member from Paget West.

Any further speakers?

I now recognise the Honourable Member, Mr. W. Lister, from Sandys South Central.

Mr. Lister has the floor.

Hon. Walter M. Lister: Mr. Speaker, I can say that we on this side appreciate the cooperation of the Members on the other side of the House with this matter. As you know, I did serve as Chairman of the BLDC for a number of years. And of course, I am still a member of the Board, Mr. Speaker.

And the fact that there have been so many people who have worked behind the scenes, I would like to take this opportunity to personally thank Mr. Andrew Swan, who is the CEO of the BLDC, and his staff, for working with the Board to try to bring this matter about. He knows, personally, and we both know, the effort that has gone on behind the scene to get this lease to the floor today. Timing is very much involved. And I think that as we go down today, Mr. Speaker, we think that having passed this matter will help us to move forward while the House is in recess, and things can come about.

While deadlines are very important and windows of opportunity come and go, we are still within that window of opportunity to be able to grasp the opportunity. And that is one reason why we thank the Honourable Member for her contribution in supporting this matter.

I think you raised salient points, Member. And I think that we are going to try to address that. This is an ideal situation of the Opposition working in cooperation with the Government.

This could be a very large project for the West End, and we hope it will be. It is a beautiful land site there on the Daniel's Head. You know there was a project there before. Now we are trying to extend the lease and improve and build on that—very simple. But the land leases and all of these things behind it are very important and very intricate. And that is the thing which consumes all of the time. Many hours have been spent before we got to this stage, and many hours slugging things out in discussion.

But, as I said, I want to take this opportunity to thank the Minister for bringing this tonight; and, of course, the Member, Mrs. Gordon-Pamplin, who has supported it in principle, I think; and those Members, as I said, Mr. Andrew Swan, who has made a valuable contribution in bringing this to the House and seeing that it gets here tonight.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Lister, the Honourable Member from Sandys South Central.

I now recognise the Honourable and Learned Member, Mr. M. Scott, from Sandys North.

Minister Scott, you have the floor.

Hon. Michael J. Scott: Thank you very much, Mr. Speaker.

Ever so briefly, to both thank the sponsor of this lease, the Honourable Minister of Works and Engineering, the Honourable Derrick Burgess, and his staff, the Permanent Secretary. I understand the peregrinations that have had to have been gone through in terms of agreeing, getting agreement by the Honourable Member Mrs. Gordon-Pamplin, the Shadow Spokesman for Works and Engineering. I thank the Honourable Member for her understanding and her support of the lease on the last day of the House.

I am excited about the project, as any of us listening to the initiative would be, from the point of view of the tourism support that is connected with this, and the excitement of bringing new product to market in the Sandys area, and certainly for the jobs that are going to be also created in the construction industry, particularly in a time that we are in, a recovery period.

Minister Burgess, Permanent Secretary Horton, Mr. Swan, and Mrs. Gordon-Pamplin, thank you. And you have my complete support.

The Speaker: Thank you, Minister, the Honourable and Learned Member from Sandys North.

I now recognise the Honourable Member, Dr. Gibbons, from Paget East.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Speaker.

Mr. Speaker, I have a couple of questions for the Minister. I think, as my honourable colleague, Mrs. Pat Gordon-Pamplin, said, we certainly do not want to stand in the way of one of the few Government projects that actually looks like it may have some money and that actually gets done here. In fact, I have to say that the Honourable Member, Mrs. Gordon-Pamplin, was quite generous, I think, because from my perspective, I do not think that we needed to have it be so last-minute, at least in terms of the information.

This Memorandum of Understanding was signed back in May. There was no need not to share that with the Opposition long before the day before yesterday. There was certainly other information that could have come to us long before the day before yesterday, because the Minister knew full well that he was going to have to get this thing done before the House went down for the summer; otherwise, there was a certain threat that the money would disappear. And I think, frankly, this would have been a lot easier if some of this information had come to us earlier. The Minister certainly could have sat down with my colleague Pat Gordon-Pamplin and said, *Look. Here is the novation agreement. Here is the original lease. Here is the MOU. We are trying to put together the final form of this, but understand that it is going to be based on these particular documents here.* That did not have to happen two days ago.

All I will say is, these developers must have extraordinary patience if they had to deal with any of the issues that we had to deal with in the last couple of days. And I am sure it has not escaped the Government that there is a certain irony that a former Bermuda Party Minister of Tourism and Shadow Minister is the one that actually is bringing this deal to the table.

Mr. Speaker, my questions are as follows. I am looking at the Memorandum of Understanding, and I would just like to follow up on the Honourable Member's, Pat Gordon-Pamplin's, question. Under section 4(2) of the MOU, it says, "A premium of $15 million will be payable by Developer to the BLDC in tranche payments.

The question I have is (it looks to me just reading it, because I do not see any other consideration apart from back rent, and essentially it looks like a couple of interest payments here), How did the Government arrive at $15 million? It is not $15 million on a present-value basis. It is $15 million spread over eight years. So it is probably really worth about $12 million, if I had to guess, if you discount that. How did they arrive at $15 million as a valuation for a property which is 19 acres? I am curious as to whether, apart from this consideration, they did an economic model to look at other issues like job creation, taxes, although they will probably give a lot of those away in the concession orders. What was the basis for this particular valuation? Was it simply what the Government was able to negotiate?

The other question I have is, under section 4.2.1, it says, "One million dollars will be payable on the commencement date, together with all deferred and arrears lease payments then outstanding." What is the amount of those lease payments and deferred arrears that are currently outstanding? What are we talking about there, from a dollar valuation?

The next question I have is, Can the Honourable Member give us some sense of how the BLDC Act is going to be modified, or how the Government intends to come back to this House, presumably with a modification which will give them the other 140 years which they do not have available to them, which they cannot actually guarantee right now because it requires House approval? Will that be, for example, the extension of the current lease of the Bermuda Land Development Company, originally 131 years? It looks like we are down to about 118 now.

Will that lease be extended another 140 years across the board? Or will it simply be for this project here? If the Honourable Member, the Minister who speaks for Works and Engineering, can give us a sense of that, I think that would be very useful indeed, because, obviously, at some point the Honourable Member will have to come back to the House and ask for the approval of the House to give the second half of the extension here, to get it up to 262 years, which I understand has been promised, but obviously will require a second approval from the House.

Mr. Speaker, those are the questions I have. I look forward to the Honourable Member's answers.

Thank you.

The Speaker: Thank you, Dr. Gibbons, the Honourable Member from Paget East.

Are there any further speakers?

No further speakers?

The Minister in Charge, the Honourable Minister, Mr. D. Burgess.

Minister Burgess has the floor.

Hon. Derrick V. Burgess, Sr.: Thank you, Mr. Speaker.

Mr. Speaker, you know, I want to thank the Opposition for their participation, their comments. I wonder, my Shadow, wants to have Robert Horton as her PS when they become Government. Well, Bobby says that, even though people in his family live a long time, he does not see himself living to 130.

[Laughter]

An Hon. Member: I do not remember even saying that.

Hon. Derrick V. Burgess, Sr.: Well, it is right here.

But anyhow, the Honourable Member, Mrs. Gordon-Pamplin, asks about the 60 days MOU that has already expired. Well, in the lease information it says it could be extended with no fault of the parties, and it has been extended. Both parties are in agreement. They all understand why it has expired. And there is certainly no problem there.

The question was asked about the SDO. Well, the SDO is in planning. And we are just awaiting a response from the planning department.

Also was a question asked or a statement about jobs for Bermudians. Most certainly. And the developers have made that very clear right from the start. We did not even have to go into that. So there is no problem there. And there is some opportunity for Bermudians to learn the new type . . . well, it is precast concrete. So this will be a great opportunity for them to learn that.

Then, I think it was asked about the $15 million, what that represents. Well, that represents the lease premium for the appraised value of the property. The $100,000 over the three years represents a length of time to pay the $15 million, just some creative financing. In this climate, if you want to make something work, then you have got to do some things that we had to do in order to get this going. That is it. Once the $15 million is paid, then it would be the normal Government taxes that will come and jobs for Bermudians. So we are looking forward to that day, also.

How would we deal with the next 144 years? Well, the extension will be exclusive to 9 Beaches. And we are taking legal advice on that subject.

I think that was all the questions. If I left out some, then I apologise. But I think that was it.

Mr. Speaker, I move that the said proposal by the Government for an extension of the lease agreement regarding land at Daniel's Head in Somerset be approved per the provisions of section 9.3 of the Base Lands Development Act 1996.

The Speaker: Any objection?

Agreed to.

[Motion carried: Extension of lease agreement for the development of land at Daniel's Head in Somerset, between the Government, BLDC, and IRC Ltd., considered and approved.]

The Speaker: I believe it was the Premier who intimated that Government Orders 3, 4, and 5 were going to be carried over. Was I correct?

Dr. the Hon. Ewart Frederick Brown: No, sir; Order 5 we are going to do.

The Speaker: Order Number 5 we are going to do. All right.

Orders 3 and 4 are being carried over.

So we now come to Order 5. Order Number 5 is the Second Reading, the Motorcar Amendment (No. 2) Act, 2010, in the name of the Honourable Member Mr. Premier.

Mr. Premier has the floor.

SECOND READING

MOTORCAR AMENDMENT (NO. 2) ACT, 2010

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Speaker.

Mr. Speaker, I move that the Bill entitled the Motorcar Amendment (No. 2) Act, 2010, be now read the second time.

The Speaker: Any objection?

Agreed to.

The Speaker: Carry on, Mr. Premier.

Dr. the Hon. Ewart Frederick Brown: Mr. Speaker, the Bill before the House this evening seeks to amend the Motorcar Act 1951, "the Act," to prohibit the owner or occupier of a fractional unit from owning or registering a private motorcar and to authorise the Minister to issue permits for the operation of a service for the hire of private motorcars to owners of fractional units.

Of the many hotel development applications currently under review by the Government, at least 10 include fractional units as a part of the application. The proposed development on the books will add more than 700 fractional units to the tourism bed-count inventory. To date, there are 155 fractional units already in the inventory. These include 34 units at Tucker's Point, Harbour Court; 102 units at Newstead; and 19 units at the recently opened Reef Club.

Mr. Speaker, consultation with developers of these properties was consistent. They were of the strong opinion that the financial viability of their properties relies on non-traditional elements. The trend is mixed-use developments comprising a mixture of hotel, residential, and sometimes commercial business. This is not unique to Bermuda, but is a global trend. In order to remain competitive, therefore, Bermuda must actively pursue cutting-edge lodging products and establish the relevant regulatory framework.

Fractional units are generally high end, most equivalent to four-star or five-star quality. Current values range from $250,000 for a fraction of a two-bedroom unit to almost half-a-million dollars for a fraction of a four-bedroom unit, indeed a significant investment for an individual investor.

It is not surprising, therefore, Mr. Speaker, that the developers further report that prospective

purchasers are of the view that, if they are being asked to invest significant sums in a fractional or six-month hotel leaseback unit, then having access to a private car is an essential component of the offer. Clearly, the private car is perceived added value.

Naturally, this creates a dilemma in a destination where legislation prescribes one car per household and efforts are directed towards reducing the number of vehicles on Bermuda's roads. As it stands currently, developers have only one assessment number for their entire hotel complex, which includes the fractional ownership units. These units are typically owned by more than one owner as tenants in common, and can consist of between eight to ten owners.

Mr. Speaker, while reducing the number of vehicles and the resultant traffic congestion on our roads continues to remain a priority, the Government is also committed to rebuilding the tourism product, increasing the number of beds, and increasing the number of air arrivals. Honourable Members will already be aware that in today's environment, the hotel component of the tourism product development effort is dependent upon financing strategies that include fractional ownership, whole ownership, and various other models that target individuals as investors to help finance the development.

Mr. Speaker, the individual investor is the new breed of repeat visitor, one who is making a significant financial investment in the destination and who is guaranteed to return, given their ownership state. For this reason, this new breed of repeat visitor has greater expectations with respect to amenities and value-added services. Bermuda, in essence, becomes their second home in many instances. The development community supports this view.

The proposed amendment, therefore, authorises the Minister to grant a permit for a fractional vehicle-hire service at a development site. Cognisant of the need to minimise the increase in the number of vehicles that we add, the maximum number of vehicles at any site may not exceed 10 per cent of the number of fractional units, or up to a maximum of 10 vehicles, whichever is fewer.

Fractional vehicles may be hired to fractional owners only. Honourable Members will know that in many cases when a fractional unit is not owner occupied, the hotel uses it like a hotel room or suite. Regular visitors, however, will not be permitted to hire fractional cars. The fractional-car vendor may be a hotel developer or any other authorised person approved by the developer to operate a fractional car hire service at the site. It shall be an offence for the service provider to allow any person other than an owner to use a fractional vehicle. To operate a fractional vehicle, the owner will be required to have a valid Bermuda driver's licence.

In summary, Mr. Speaker, the proposed amendment will provide for the establishment of fractional vehicle hire services for the exclusive use of fractional units only, therefore adding value to fractional unit ownership in Bermuda for those developments sites that choose to add the service to their offering.

With these brief remarks, Mr. Speaker, I now invite Honourable Members to participate.

Thank you.

The Speaker: Thank you, Premier.

I now recognise the Honourable Member, Mr. H. Swan, Leader of the Opposition, from St. George's West.

Mr. Swan, Leader of the Opposition, has the floor.

Hon. Hubert (Kim) E. Swan: Thank you, Mr. Speaker.

Mr. Speaker, I do take note of the Premier's presentation with regards to the Motorcar Amendment (No. 2) Act as it ushers in with fractioning units becoming more prevalent. And hopefully when the economy turns around, those particular developments that may have slowed in their sales as a consequence will see a resurgence in people purchasing units, that those fractional units represent the new breed of repeat visitor.

I agree with that. Having spent the majority of my adult life working in and around the tourism industry, I do know of many repeat visitors who purchased in the Bermuda dream through owning homes. That is to a lesser degree now being substituted by persons who are purchasing into, or considering purchasing into, fractional ownership.

Whilst this legislation caps it at 10 per cent of the units of that development up to a maximum of 10, whichever is the lesser (I believe the Premier said), in some regards we have to make sure that that will remain, because we do know, Mr. Speaker, that should more of the owners opt to not do the rent-back programme, that in essence you could have far more persons occupying their units at the same time who all may have, in fact, a Bermuda driver's licence, which is one of the requirements. And therefore the demand for these rental cars, hire cars, would be greater than the supply that is enabled through the legislation. So we have to be mindful of that.

I would like to know from the Premier whether or not there had been any consultation with other stakeholders who are in the transportation industry. I know you know, better than anyone, some of the challenges that exist within transportation and also with service providers in that particular field. We have different service providers today, and I am sure it would be useful to know that they have offered some consideration into the establishment of this particular legislation.

Obviously, I believe, most Members would probably be aware of some of the comments that may

have been already advanced as regards to how, from a sustainable point of view, the amount of traffic that we already have on our roads fits into this equation, and certainly I would be interested to see what some of the Premier's comments would be with regard to that.

But it is certainly important to appreciate that, if we are going to attract persons to our shores who are going to spend significant periods of time in our Island (as I do know a number of people who have invested in the fractional concept, which is a far more upscale version than the original timeshare that is now some 30 years old for Bermuda), that those are the type of considerations that they would certainly want us to make.

So those are my remarks with regard to this amendment, Mr. Speaker.

Thank you.

The Speaker: Thank you, Mr. Swan, Leader of the Opposition.

I now recognise the Honourable Member, Mr. D. Hunt, St. George's South.

Mr. Hunt, you have the floor.

Hon. Donte O. Hunt: Thank you, Mr. Speaker.

Mr. Speaker, I will be brief with my comments. The BDA and I certainly do support this particular Act, the Motor Car Amendment (No. 2) Act. And let me say, Mr. Speaker, with a few words, that we certainly do appreciate, first and foremost, that this Act will . . . and there will be those out there that have fear, and rightfully so, that this Act will contribute to added traffic and congestion in the Island. That is something that will happen. But I think that, more importantly, we have to understand that this Act will provide value for those who invest in our country, those who come here. And, as the Honourable Member the Premier rightfully stated, those who invest some $500K in this Island should have the value of having the option of driving a vehicle in Bermuda, and the comfort.

Much like, Mr. Speaker, what we have seen in the international business, big value for us in Bermuda, they have been able to glean from having vehicles and drive those vehicles on the Island, four-wheel vehicles, that is, not two-wheeled. And so, just like the international business, we want to extend this sort of service and comfort to them as well.

Mr. Speaker, we are also comforted by the fact that they ("they" being fractional owners) can drive only if they have Bermudian licences. And that ensures that they know our roads, they know how to drive on our roads, they drive in a safe manner. After all, for some of them, they are driving on the other side of the road. We have narrow roads. There are a lot of bends and turns, so we certainly do not want accidents happening because people do not know how to ride on our roads. So we are comforted by that fact as well.

We are also comforted by the fact that 10 per cent of any establishment, in terms of their fractional units, can have vehicles. So, one out of every ten units can have a vehicle, which means that they limit the amount of vehicles that are on the road, lowering the congestion that could possibly be there.

Now, the one question that we have, Mr. Speaker, in terms of clarification, is, What, in fact, constitutes a fractional unit? A fractional unit could be the physical property, which I assume it is. Or, as I have learned from looking at this particular Act, a fractional unit is broken up into fractions. So you can have about 10 owners per unit. Is a fractional unit the apartment itself, the physical property? Or is it the amount of owners that it can have? I think the former as opposed to the latter. But if the Minister can speak to that, the Honourable Leader of this country can speak to that, that would be great.

Mr. Speaker, one thing I think that we want to offer, or at least suggest or encourage, is that the vehicles that are used be green vehicles, vehicles that are either electric, vehicles that are (I am looking for a word)—

An Hon. Member: Hybrids.

Hon. Donte O. Hunt: —hybrids, that would be absolutely phenomenal. And that would set the precedent, I believe. If we can have these vehicles be hybrids or electric cars or cars that are good for our environment, that would be good and something that is commendable.

But all in all, Mr. Speaker, we support the Bill. The BDA supports the Bill, and we certainly recommend that the cars are green cars.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Hunt, the Honourable Member from St. George's South.

I am going to take the Honourable Member, Mr. D. Tucker.

The Honourable Member, Mr. D. Tucker, from Hamilton South, has the floor.

Mr. Darius D. M. Tucker: Good evening, Mr. Speaker, just to piggyback on what my honourable colleague, Brother Donte O. Hunt there, just spoke of, Honourable Member, is that when we talk about these hired-for cars . . . I know the issue came up once before when the Honourable Minister mentioned that he had taken possession of his vehicle, and the only reason why he was able to take possession of it, because Ministerial cars have a special right, that they can be just a tad bit bigger than the usual cars. So that is something else that would have to be taken under consideration if the Government was to consider that.

The other thing that I would also just like to say, because a lot of people consider traffic a big issue, is one thing that I heard from a few people that

ran into me along the streets, because they just went into high-panic mode, is that these people are not going to be driving into Hamilton at 8:00 in the morning. I can guarantee you that. And they are not going to be driving at 5:00 in the afternoon in traffic. You know, they are going to be sitting off with their toes pointed up towards the ceiling, relaxing, or playing golf or tennis.

[Laughter]

Mr. Darius D. M. Tucker: So that is just to allay fears of people that just think that people who are just going to be driving these vehicles are going to be doing those types of things, because they are out here to relax. You think they are going to drive in 8:00 traffic, Minister?

So, Mr. Speaker, I just want to assure some of my Bermudian colleagues within this country that, as we move forward and as we progress, there are some things that are going to come about that are going to be new to Bermuda, but it will be in our best interests. And if we go in smaller portions, it certainly will be a good life for us all in the future.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Tucker, the Honourable Member from Hamilton South.

I now recognise the Honourable Member, Mr. C. Swan, Southampton West Central.

Mr. Swan has the floor.

Mr. Charles F. B. Swan: Thank you, Mr. Speaker.

I had a couple of points I wanted to raise, and questions for the Honourable Member who speaks to this legislation.

First of all, I do concur also with the move to green transportation. I have to admit, in the Schedule here (is it the Schedule?), where it goes into the size of the vehicles, I was a little bit concerned seeing where it says "an engine capacity not exceeding 2,500 cc's." And I just wondered, perhaps, you know, if the Minister could say where that figure came from? I would have thought that in this day and age, especially since we are allowing our visitors and people who have invested a substantial amount of money into our Island, we might, you know, probably win a few plaudits for going green. And that was one question, Where did that figure come from?

The other thing I wanted to touch on, Mr. Speaker (and I imagine we are going to go to Committee, so maybe I am being a little too picky), but it talks about transfers of permit. And I just wanted some clarification as to what that meant. Does that mean—

The Speaker: When we get into Committee.

Mr. Charles F. B. Swan: When we get into Committee I can raise that.

And I had one other one to do with the actual ability to own hire companies. So I will raise those in Committee.

But thank you, sir.

The Speaker: Thank you, Mr. Swan, the Honourable Member from Southampton West Central.

Any further speakers?

No further speakers. Mr. Premier can reply.

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Speaker.

The first thing I would like to answer is that the advice as to the size of the engine came from the Technical Advisory Committee at the Transport Control Department. We will definitely—we have been talking about the possibility of encouraging the use of cars with low emissions. You referred to them as "green cars." And that is exactly what we are thinking.

The Honourable Leader of the Opposition, I think it was, raised the question about consultation. Absolutely, Mr. Speaker. The consultation has taken place with all segments of the transportation industry, including taxis. Even though we tried to have one consultation at the airport one night last week and there were no taxis.

[Laughter]

Dr. the Hon. Ewart Frederick Brown: But we did have serious consultation with the taxi industry, and that is how, in fact, we got to the formula, and that it was not just an open-field situation, and that there is a limited number of cars.

But I must say, Mr. Speaker, that people who invest in Bermuda, or anywhere else, do not expect to have transportation challenges. And they would like to be able to move around as they wish. And so, above and beyond what is provided through these fractional vehicles, we have to continue to improve the delivery of transportation services to our visitors.

The question was raised about the environment, and some of the comments that were in the media recently concerning this issue. And there was some resistance to the idea by one particular organisation that seems to resist almost any innovative change that we try in tourism, including a collapsible bar on the beach. And so it seems as though whatever it is—and maybe it will change after I leave—but whatever it is, if it is something new, something fresh, something exciting, something vibrant, it seems to not meet with the approval of this particular group. But I would expect that it will not be long before they will realise that if we continue to say no in tourism, that we will be even further behind.

So with that, Mr. Speaker, I move that the Bill be committed.

The Speaker: Any objection?

Agreed to.

Will the Honourable and Learned Member, Mr. J. Barritt, from Devonshire South Central, please take the Chair of Committee?

House in Committee at 12:00 am

[Mr. John Barritt, Chairman]

COMMITTEE ON BILL

MOTOR CAR AMENDMENT (NO. 2) ACT 2010

The Chairman: The House is in the Committee of the whole. We are dealing with the Motor Car Amendment (No. 2) Act 2010.

We turn to the Minister responsible, the Premier, Dr. the Honourable Ewart Brown.

Mr. Premier?

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Chairman.

Mr. Chairman, this Bill amends the Motor Car Act to prohibit the owner or occupier of a fractional unit from owning a private car, and authorises the Minister to issue permits for the operation of a service for the rental of private motor cars to owners of fractional units.

I move clauses 1 through 7.

The Chairman: It has been moved we deal with clauses 1 through 7.

No objection?

Please proceed, Mr. Premier.

Dr. the Hon. Ewart Frederick Brown: Clause 1 is the citation.

Clause 2 provides for a definition of "a designated development," "a fractional hire vehicle," "a fractional unit," and "the fractional vehicle car hire service" under the Act.

Mr. Chairman, I would like to make a motion to amend the definition of "fractional unit." I have provided the Clerk with copies of the motion for circulation to Members. And, Mr. Chairman, with your permission?

The Chairman: I am just trying to locate the copies. Here comes the Sergeant-at-Arms. It may be that he has what we need.

[Pause]

The Chairman: I now have before me an amendment to clause 2 of the Bill.

Dr. the Hon. Ewart Frederick Brown: Yes, sir.

PROPOSED AMENDMENT
CLAUSE 2

The Chairman: In the definition "fractional unit," by deleting the words "a valuation unit" and substituting the words "any property." Is that the one?

Dr. the Hon. Ewart Frederick Brown: That is it, sir.

I so move.

The Chairman: Would you like to proceed through, or do that particular—

Dr. the Hon. Ewart Frederick Brown: I could proceed through and we could vote for all at one time.

The Chairman: Yes. And you can explain the change, and then we can do the clauses as amended.

Dr. the Hon. Ewart Frederick Brown: All right. Yes. Yes.

Then I will move to clause 3. That inserts new sections 19G to 19N in the Act. Section 19G prohibits the owner or occupier of a fractional unit from registering a private motor car in respect to that unit. Section 19H authorises the Minister to designate a property that provides accommodations for visitors to Bermuda as a "development" and to designate a property within a designated development as "a fractional unit" for the purposes of this Act.

Section 19I authorises a person to operate a fractional vehicle hire service under a permit granted by the Minister. The maximum number of hire vehicles that a service may have is 10 per cent of the number of fractional units in a development, up to a maximum of 10 vehicles per development. Vehicles may only be hired to owners of fractional units when they are in occupation of their units, and they must hold a valid Bermuda driver's licence for the type of vehicle that is hired.

Section 19J deals with applications for permits to operate a fractional vehicle hire service and renewal of permits. Section 19K deals with the transfer of permits; 19L deals with the suspension and revocation by the Minister of a permit to operate a fractional vehicle hire service.

Section 19M authorises the Minister to make an order varying the maximum number of vehicles in respect of designated developments generally, or in respect of any particular development.

Section 19N creates offences. Offences against the Act are to be prosecuted before a court of summary jurisdiction, section 117 of the Act, and are punishable by a fine not exceeding $2,100, section 121 of the Act.

Clause 4 inserts a new item in Schedule 1 to the Act, setting out the specifications for fractional hire vehicles.

Clause 5 inserts a new item in Schedule 1(b) to the Act, setting out a one-time permit fee of $5,000 for fractional hire service operators, as well as a one-time permit fee of $3,000 per vehicle owned or registered by the operator of a fractional car service.

Clause 6 inserts a new item in Schedule 2 to the Act, setting out the licence duties for fractional hire vehicles.

And clause 7 provides for the Act to come into operation on a day to be appointed by the Minister.

The Chairman: Thank you, Mr. Premier. Did you want to make any comment with respect to the amendment to the definition? Or is that straightforward?

Dr. the Hon. Ewart Frederick Brown: Not really. I think it is straightforward and self-explanatory.

The Chairman: Right.

All right. Does any other Honourable Member wish to speak to clauses 1 through 7?

The Chair recognises the Honourable Member, Mr. C. Swan, from Southampton Central.

Mr. Swan, you have the floor.

Mr. Charles F. B. Swan: Thank you, Mr. Chairman.

My questions pertain to section 19I and also 19K. The operation of fractional vehicle hire service—and maybe I am being too detailed; I do not know. But 19I, section 1 says, "Notwithstanding anything in section 16, a person may" and it goes on to say "operate a fractional vehicle." And I am trying to find out, what is the intent here? Because it talks about, you know, the operators of fractional vehicle hire services in a development.

Is it the development that is going to own these vehicles and rent them out? Is it an individual? Is it a private company? Is this, you know, perhaps a business that locals could get involved in?

I just found that—

Dr. the Hon. Ewart Frederick Brown: Yes to all of those.

Mr. Charles F. B. Swan: Yes to all of them. Okay.

[Inaudible interjection]

Mr. Charles F. B. Swan: Understood. Okay. Thank you.

The other question was to do with transfers. Now, I mean, private cars can be sold and what-have-you, at will. But vehicles that are used for goods use, light trucks and what-have-you, those permits are not transferable. So I am trying to get a feel here as to, you know, is the transfer that we are talking about here the transfer of unused . . . say a development has 100 units and can get 10 cars, but only gets 3. What are we transferring, the remaining 7? Or is this transfer based on, you know, change of ownership of the development or the owner of the business?

I am just a little confused.

The Chairman: All right. Is that your question?

Mr. Charles F. B. Swan: Yes.

The Chairman: We will let the Premier.

Mr. Charles F. B. Swan: Thank you. Those were the only things I had, Mr. Chairman.

The Chairman: Does any other Honourable Member have a question or comment?

The Chair recognises the Leader of the Opposition, the Honourable H. Kim Swan.

Mr. Swan, you have the floor.

Hon. Hubert (Kim) E. Swan: Yes, just a brief question also in 19I.

Does the Premier envision how many licences will be available for vehicle hire services? I am trying to get the workability of this. Do you envision having one company, maybe a car company, operating a vehicle hire service? Is there going to be a fee for that service to operate? I am just trying to get the workability of the hire service.

That is all, Mr. Chairman.

The Chairman: Does any other Honourable Member wish to speak to the Bill?

No?

I call upon the Premier.

Mr. Premier, you have the floor.

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Chairman.

In an effort to answer the Honourable Member Mr. Swan's question, it means what it says. "A permit issued under section 19J is not transferable," period, "without the permission of the Minister," period, transfer inside, outside, left, right—cannot move it unless the Minister says okay.

The question raised by the Leader of the Opposition in terms of what he called the "workability" of it, we do not know. We made it kind of flexible so that an individual, a Bermudian, may wish to start up such a company. A hotel may wish to start a company in conjunction with, in partnership with, a Bermudian. We have had various models proposed. But the legislation is written so that we do not have to, or you do not have to, come back here and change it.

The Chairman: Does any other Honourable Member wish to speak?

The Chair recognises the Honourable Member, Mr. D. Tucker, from Hamilton South.

Mr. Tucker, you have the floor.

Mr. Darius D. M. Tucker: Mr. Chairman, actually I am looking at some clauses here, but I do not know where this will fit into. But I will ask the question. I will probably try to fit it in under the amendments in Schedule 1, when you are talking about engine capacity. But what I want to ask is, Will these vehicles have a special licence plate to identify them? Or will they just have a traditional private-car licence plate?

The Chairman: Mr. Premier?

Dr. the Hon. Ewart Frederick Brown: I am not sure at the moment what we will have. They may have something like we did with the loaner vehicles where we put a certain type of identification on it.

[Inaudible interjection]

Dr. the Hon. Ewart Frederick Brown: Right.

[Inaudible interjection]

Dr. the Hon. Ewart Frederick Brown: Right. Well, we will work out what is most practical.

The Chairman: Are there any other comments or questions?

No?

Mr. Premier, would you like to move the Preamble?

Dr. the Hon. Ewart Frederick Brown: I sure would, Mr. Chairman. I would like to move the Preamble and move that the Bill be reported.

The Chairman: And clauses 1 through 7 as amended?

Dr. the Hon. Ewart Frederick Brown: And clauses 1 through 7 as amended.

The Chairman: As amended.

Dr. the Hon. Ewart Frederick Brown: And move that the Bill be reported to the House.

The Chairman: You have heard the motion. Those in favour? Those against?

AYES.

The Chairman: Carried.

[Motion carried: The Motor Car Amendment (No. 2) Act, 2010, was considered by a Committee of the whole House, passed with amendments, and will be reported to the House.]

House resumed at 12:11 am

[Hon. Stanley Lowe, Speaker, in the Chair]

REPORT ON BILL

MOTOR CAR AMENDMENT (NO. 2) ACT 2010

The Speaker: Is there any objection to the Report of the Committee as amended?

Agreed to.

Is there another matter?

[Inaudible discussion]

The Speaker: I recognise the Honourable Member Mr. Burgess.

Minister Burgess, yes?

SUSPENSION OF STANDING ORDER 21

Hon. Derrick V. Burgess, Sr.: Mr. Speaker, I move that Standing Order 21 be suspended to enable me to move for consideration the Draft Order entitled Bermuda Housing (Vesting of Land) Order 2010.

Mr. Speaker, I move that consideration be now given in the House to Draft Order entitled Bermuda Housing (Vesting of Land) Order 2010.

The Speaker: Any objection?

Agreed to.

[Motion carried: Standing Order 21 suspended.]

The Speaker: With the indulgence of the House, the Minister is going to do forthwith.

Carry on, Minister.

CONSIDERATION OF DRAFT ORDER

BERMUDA HOUSING (VESTING OF LAND) ORDER 2010

Hon. Derrick V. Burgess, Sr.: Thank you, Mr. Speaker.

Mr. Speaker, at this time I would like to introduce Bermuda Housing (Vesting of Land) Order 2010.

Honourable Members are hereby advised that the head lease between the Government of Bermuda and the Bermuda Land Development Company Ltd. (BLDC) was surrendered on the 1st of July 2010, in order that certain parcels of land might be divested to the Government. Those BLDC lands included, among others, the land at Southside Harbour View Village designated for residential development. The project has been undertaken by the Bermuda Housing Corporation.

The area, comprising 1.9 hectares, is particularised in the Schedule to the Order and shown in the

annexor to the Order. The head lease between Government and the BLDC is dated the 2nd of June 1997, with the term commencing on the 12th of November 1996 and expiring on the 11th of November 2127. Therefore, at the time of the surrender there were approximately 117 years of the term unexpired.

Mr. Speaker, the people of Bermuda will be aware that the Government has always maintained that the provision of affordable housing to members of the community who do not have the financial means to rent or purchase houses on the open market is of the highest priority. The plan for the Southside Harbour View Village will ultimately comprise 84 two-, three-, and four-bedroom units providing home ownership to the winners of the Harbour View lottery who have patiently and confidently waited for the development to come to fruition.

The vesting of land will help to ensure that the delivery of the project remains on schedule for the first occupants to move in by October of this year. Mr. Speaker, this Order will assist in realising the hopes and dreams of many Bermudians who deserve and must have a safe and affordable place in which to live.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister Burgess.

Any further speakers?

I recognise the Honourable Member, Mrs. Gordon-Pamplin, from Paget West, Shadow Minister of Works and Engineering.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Speaker.

Mr. Speaker, the Minister is really testing my good graces, because he knows that there is no way that we can ever have any objection to affordable housing. We recognise that this lease was surrendered only on the 1st of July 2010, and hence, obviously, churning through the legislative process, the Order was only tabled this morning. But with the concept in mind, we are not going to object, notwithstanding the short notice, as I mentioned in the previous debate that we had, that we recognise that there are times that we have to make accommodation, and clearly this is one.

I just have a question, though. In looking at the plan relating to this, this is the Southside Harbour View Village. And you will recall that when houses were first mooted about being placed in that general area, the houses were meant to be across the street, and there were going to be 100 homes that were going to be on sale for, I think, $199,000 each, and then 100 full-market-price houses. And we now see that we have got 84 houses across the street and up the hill.

So I was just wondering, on the property that is down on the waterside relating to this, whether that original plan of 200 houses is likely to be fulfilled, or is this going to be it, the 84 houses that we now have on this site? I am just curious, because you will recall when the lottery (because I think the Minister referred to the lottery winners) was first advanced, there were 100 lottery winners. So now if we have only got 84 houses, what happens to the other 16 lottery winners, whether in fact we have the extra . . . you know, whether the total number of houses reaches 200 or not, I would not want to think that we have given lottery winners, 100 of them, and then find that there were only 84 houses because then I would want to know what happened to the contraction of the numbers.

So that would be my only question and comment. But we have no objection.

Thank you, Mr. Speaker.

The Speaker: Thank you, Ms. Gordon-Pamplin.

Any further speakers?

The Minister in charge, the Honourable Minister D. Burgess, is going to reply.

Minister?

Hon. Derrick V. Burgess, Sr.: Thank you, Mr. Speaker.

Thank you, Mrs. Gordon-Pamplin.

It was 99 houses that were to be built. And in fact, 14 dropped out and have gone to other locations. So hence, that is the 80-plus.

[Inaudible interjection]

Hon. Derrick V. Burgess, Sr.: Yes. They are going to other properties. Yes, yes. That is wonderful.

Mr. Speaker, I move that the said Draft Order be approved and that the following message be sent to His Excellency the Governor:

"May it please Your Excellency, the House of Assembly have had under consideration a Draft Order entitled the Bermuda Housing (Vesting of Land) Order 2010, proposed to be made by the Minister responsible for Public Land under the provisions of section 11 of the Bermuda Housing Act 1980, has the honour to confirm that the House has approved the said draft Order."

Thank you, Mr. Speaker.

The Speaker: Is there any objection?

Agreed to.

[Motion carried: Draft Order entitled the Bermuda Housing (Vesting of Land) Order 2010 considered and approved.]

The Speaker: For those who perhaps have not been following the two matters which Minister Burgess did were only presented this morning. And the Minister asked that we suspend the Standing Order 23 (I think it is) to do it forthwith; and the Opposition have agreed. So they would not have appeared on the Order Paper.

All Government Orders have been completed.

We come to Order Number 6, the Parliamentary Election Amendment Act, 2010, in the name of the Honourable and Learned Member, Mr. J. Barritt.

SECOND READING

PARLIAMENTARY ELECTION AMENDMENT ACT 2010

Mr. John Barritt: Thank you, Mr. Speaker. I move that the Bill entitled the Parliamentary Election Amendment Act, 2010, be now read the second time and committed.

The Speaker: Any objection?

Agreed to.

Carry on, Mr. Barritt.

Mr. John Barritt: Thank you, Mr. Speaker.

I take it up in the spirit that seems to be moving the House this evening. Things are moving quickly and passing through, and I hope I get the same treatment.

[Laughter]

Mr. John Barritt: It is late, is it not? I am dreaming.

[Laughter]

Mr. John Barritt: Mr. Speaker, let me just say, the reason I brought this Bill and put it on the Order Paper is to highlight the fact that there is a problem that I think is not being addressed and is not being corrected with respect to the state of our current Parliamentary Register.

It is borne, in part, of my own personal experience canvassing in my constituency on a regular basis, where I come up against, on a regular basis, people who continue to be registered in homes in my constituency but no longer live there and have not for some time. And of course, I duly report these people to the Office of the Parliamentary Registrar, in the hopes that they will be able to address the problem, identify these people, and get them in their right constituencies, if in fact they are still living in Bermuda. That is not always the case, either.

Dr. the Hon. Ewart Frederick Brown: Point of information.

The Speaker: Do you yield?

Mr. John Barritt: Sure. Absolutely.

The Speaker: The Honourable Member is yielding.

Mr. Premier has the floor.

POINT OF INFORMATION

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Speaker, and I appreciate the Honourable Member allowing this intervention.

But I think it is important to inform the House that this matter is currently under review by Cabinet and the review began last week. And so we would not be in a position to comment on it until we finish our deliberation.

Mr. John Barritt: That is an interesting piece of information, Mr. Speaker. I appreciate that the Premier says he will not be able to comment on it or disclose what he is doing. But I still think I am entitled to bring the Bill forward, and I hope in some small way that it will, you know, prompt, stimulate, and keep the process going because it is a concern.

I am not going to be long. I know Ministers over there. I thought they all hung in here waiting for me to get to this particular Bill this evening, Mr. Speaker.

But as I say, there is this problem. The Parliamentary Registrar himself has admitted that maybe, in his view, there may be as many as 2,000 people who are incorrectly registered. And that is a significant number, I think, where you have got a problem, if your registry of 40,000 people and in districts which number, on average, about 1,000 to 1,100, and elections are won or lost, some of them critically, by 100 or less. And it is important that we get it—

[Inaudible interjection]

Mr. John Barritt: No, no, 100 or less, I said.

[Inaudible interjection]

Mr. John Barritt: Oh, yes, eight is a lot less.

And I am not saying I know which way people vote. I mean, I know people say that is an issue. That is not the issue. The issue is that I think it just goes to show how important it is to get it right if you are going to have one man, one vote of equal value.

Not only can it not be right that people to remain registered and thus vote in districts in which they no longer live, it is wrong constitutionally, too, Mr. Speaker. I mean, if you look at our Constitution, section 55(1)(c), says that someone who votes has to be ordinarily resident in that constituency.

The problem is, what happens, of course, people do move. And one of the things that is not on their list of things to do when they move is change their registration. And it gets overlooked. And there is no punishment in the Act for failing to do it; I remember that debate. We said there is no point punishing people for this. What we have to do is encourage them, exhort them, and hope, with the continuous reg-

ister, that people will eventually be—we will catch up to them.

But the system, I think, is showing it is not working, Mr. Speaker. When you have got 2,000 people like that, it is simply not working. And you know, I have been already accused in bringing this Bill of trying to disenfranchise voters. And what a rush to judgment that is in terms of an opinion, Mr. Speaker! What we are trying to do with this Election Act—and I understand the Government is not going to support it tonight because they have got their own review. That is what I understand, that is what I take from what the Premier had to say.

The Speaker: You have drawn that.

Mr. John Barritt: Yes, I have drawn that conclusion. And it is good to know that it is under review, because we had a piece of legislation here back in 2005—I still have a copy, Mr. Speaker—which the Government brought forward at the time. It was a draft to try and improve the Parliamentary Election Act. And it never went anywhere, just fell off the radar. And then we had an election and we continued to have these problems, and it is not addressed.

There is no desire here to disenfranchise voters; the desire here is to give the Parliamentary Registrar the power to chase up these voters. You know those ads, Mr. Catch-em? Remember, I said, Mr. Catch-em is all very well, but we don't want to *catch them;* we want to *put them* in their right constituencies.

What this Act proposes to do is to give the Parliamentary Registrar the power where, on reasonable cause he suspects someone is incorrectly registered, to send a notice by prepaid registered mail to their address as it is reported in the Parliamentary Register (which, of course, is a bit of a nonsense because if they no longer live there, they are likely not to get the mail), and/or publish it in the newspaper, Mr. Speaker, so that they will be on notice that there is a question about their continued registration.

An Hon. Member: That is the one they normally use.

Mr. John Barritt: Yes. Well, actually, Mr. Speaker, let me pause here and say that the reason I came up with this amendment . . . I would not want Members to think that I am in any way inventing the wheel here. You may recall, Mr. Speaker, probably better than most in the Chamber, that there was a time before we went to annual registration where there was a continuous registry. The annual registration was introduced in the '70s, I think.

And at the time we had the old continuous registry before the introduction of annual registration, there was this particular power in the Act which gave the registrar not only the power but the duty to investigate from time to time, on reasonable cause, whether someone is incorrectly registered.

When we moved to annual registration—this is my surmise from my research—that provision was dropped. And I think the reason it was dropped was, people said, *Well, everybody is registering every February, then you really do not need to have the registrar getting exercised about people who are incorrectly registered for 12 months because they will have to put it right in the next February.* And we went forward.

Then when the Progressive Labour Party came in and changed the Act and said, *Now we are going to go back to having a continuous register, and there will not be this annual registration,* this particular provision was not lifted up again to give the registrar that power to do what I think he or she needs to do in order to keep that register accurate. And it is very frustrating.

You know, Mr. Speaker, when you come across . . . and this registrar, I am sure he does his best. He has done notices before in the newspaper. He has no statutory, real authority or power to do that. But he makes it part of his exercise. And I think what he needs is this power to move things along. And I know he is trying to join up with other Government departments now so he gets information on when people change their addresses and that.

What he needs is the power to bring people in. Although this says they can be taken off the register, that is the stick. That is the motivation, you hope, that people come in because what do we have now? The power to be registered at any time. So when they come in, he says, *All right. Fair enough. You are not registered in Devonshire South Central. You are now living in Warwick. Let us just change your registration.* And you get it done! It is as simple as that. What you have got to do is motivate people to come in.

Now let us touch upon the dirty secret. We all know there are some constituencies where votes are closer than others. And in those constituencies, let us say that votes are more valuable than they are in constituencies that are so-called safe seats. And the temptation, Mr. Speaker, is to remain registered in a district where you think your vote will count and be more valuable if you are a committed person to the UBP or the PLP.

An Hon. Member: Or the BDA.

Mr. John Barritt: Or the BDA.

You do not have to be a rocket scientist to figure that out, Mr. Speaker. And that is what we have got to address here, to make sure that people are, as our Constitution Order requires, voting in the constituency in which they are ordinarily resident. And the registrar has to have the power to deal with that.

If we do not do it, Mr. Speaker, it would not be for me . . . when I come across people and I find they have come into my area that are registered in another

area, I tell them what they must do. Not only do I tell them, I give them a form, if I can, fill it out in front of me and I will take it in for them. And that is what you try to do. But it does not always work that way. It does not always work that way.

The danger is that the word will go forth, which is, *Look. If nothing is going to be done about this, if the registrar feels he cannot do anything about it, then you might as well, you know, register and be registered in marginal constituencies where your vote is more valuable. If you know somebody there, go to live there for a day or two, register there, and then keep your registration because no one will do anything about it.*

The word will go forth, Mr. Speaker. Indeed, I suspect in some ways it does. And this is what we need to address. And that is exactly what this provision is designed to do. And I am sure Members know that there is a problem. The question I was developing, the will to do something about it. As I say, the provision I have here today is just merely an adoption, plus I crafted in . . . The old one said you just send a letter in the mail. And I thought, *Well, we are beyond that.* We can post a notice in the newspaper, too. Give people as much notice as possible, that they need to come in and explain and justify whether they are still living in the district in which they are registered, or whether they need to change their registration to the proper district.

In this way, we get a more accurate register. And not only is it accurate, but it is fair as well, Mr. Speaker, particularly if we are trying to develop, as we are around here, one man, one vote of equal value and constituencies of equal numbers of people. We have got to get on top of this problem.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Barritt, the Honourable and Learned Member from Devonshire South Central.

I now recognise the Honourable and Learned Member, Mr. M. Pettingill, from Warwick West.

Mr. Pettingill, you have the floor.

Mr. Mark Pettingill: Thank you, Mr. Speaker.

I just rise briefly to say—one is by way of commendation. We have heard a lot today about the extension of franchises and democracy from all sides of the House. I have spoken on it; we have certainly heard it from the other side. And my honourable and learned friend, Mr. Barritt, again brings a piece of legislation to the House for the consideration, I would say, for the betterment of the country with regard to the Parliamentary process and with regard to democracy.

I think this is the type of thing that is to be encouraged and commended and that, you know, we want to see people up here who are aware of what needs to be done and are capable of going about it. There are a lot of pretenders out there that would run for seats that do not even have a clue as to what goes on up here. But they are still out there trying to ply their trade. And they get up here and are absolutely clueless with regard to where to start or even begin to try and address a piece of legislation like my honourable and learned friend just has. But they still want to come and, I am sure, think that they would be able to somehow fill that shoe.

I will not mention any names. But they are out there, right?

[Inaudible interjections]

Mr. Mark Pettingill: But the point is, Mr. Speaker, that in the spirit of moving forward in the right direction in this country, that type of legislative approach and drafting . . . I do not see where there can be any real objection to that because that is something that has been put forward by the honourable and learned gentleman, which is a safeguard for democracy for all of us—for all of us in our constituencies.

Whilst I appreciate that it may be under consideration, I hope that his model—and it may be that he did not get the jury note on the guilty verdict. But I am sure that he could probably telegraph it as well. But at least the model that is presented to the House that, hopefully, we will see in some form down the road if we are not able to all say *Let us embrace it tonight,* that that model will be coming up and people will be able to say, *Yes. That is the model that the Honourable John Barritt laid before us, and it made sense, and it was a good one to take up, and there is nothing objectionable about it, there is nothing that is a partisan position about it.*

It just would lead to better governance in the benefit of all of us because, obviously, we want to have fairness with regard to the Parliamentary registration, and that will work for everybody in every constituency. Nobody wants to have people that are not properly registered and we want to have the means to deal with that to ensure as fair a process as possible to ensure that our democratic franchise works for everybody.

So, from that standpoint, surely everybody has to support that type of Bill and the effort that goes into that from, not a Member from the Government, but a Member from the Opposition benches to put that forward in the greater interest of our country and our Parliamentary process and our legislation.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Pettingill, the Honourable and Learned Member from Warwick West.

Any further speakers?

I recognise the Honourable Member, Mr. H. Swan, Leader of the Opposition, from St. George's West.

Mr. Swan, you have the floor, sir.

Hon. Hubert (Kim) E. Swan: Thank you, Mr. Speaker.

An Hon. Member: Never too late. Repent!

Hon. Hubert (Kim) E. Swan: I am most obliged to the Honourable and Learned Member, Mr. Barritt, for bringing this amendment Act to Parliament and for his consistent efforts in the area of good governance.

Mr. Speaker, as someone who has spent a lot of time in the vineyard trying to get to this place, I certainly can appreciate the spirit of what Mr. Barritt presented here today, the Honourable and Learned Member Mr. Barritt, has brought here today.

The Speaker: Yes.

Hon. Hubert (Kim) E. Swan: It is easy, Mr. Speaker, very easy in some regards, as Mr. Barritt, the Honourable and Learned Member, referred to the distinction between safe seats and not-so-safe seats, Mr. Speaker. And in Bermuda, this country is sufficiently polarised in some regards where there are as many as some 24 to 26 predetermined seats.

Mr. Speaker, as someone who knows what it feels like to lose by 22 and win by 17, and knows the difference between the single-seat constituencies that we contest today and the dual-seat constituencies that we had to contest some 28 years ago, when the Honourable Member Mr. Lister was up in Sandys South back then, I know, Mr. Speaker, that the amendments that the Honourable and Learned Member Mr. Barritt has put forward really need to be taken on with very much seriousness from the Government. We really need these types of amendments to be embraced, Mr. Speaker.

I know what it is to have someone registered in a household that you know has not lived there for 10 years. And the owners . . . it is so difficult to get them removed off of the list. I know of households where persons are registered, and the people that live in the house, that own the house, cannot get them off of the registration in the house that they own.

I know of stories, Mr. Speaker, where someone was registered and they were incarcerated. And they were registered in the house of a police officer. And you know, when you share the electoral roll and someone looks and says, *Well, this person does not live in my house! I purchased that house 10 years ago,* you know, it is a bit of a nuisance and an annoyance to the people that actually live in that particular house.

Notwithstanding, Mr. Speaker, the fact that there are those of us who, you know, looking at every vote very critically, because it is very important when it comes down to election day.

There are other issues as it relates to the Parliamentary Election Act with how persons can change their registration once the writ is dropped. In some jurisdictions, like in the UK, once the election is called you cannot change your registration. That is the rule that they operate off of.

In fact, I can recall, Mr. Speaker, in the 2007 election, December 2007, the final register, I could not even wrap my mind around. I knew that list, Mr. Speaker, but in the week before you went to the polls, I could not allow myself to lose focus to worry about the three, four, five, six people that may have changed or come onto the roll. I just had to stay focused.

You should not have to operate like that. I know someone who knows they are going to win by 300 or 400 votes, does not have that problem. But someone who could win or lose by 17, every vote counts. And you cannot really put hand over heart and say you have got one man, one vote of equal value, when you have those types of disparities in this country, Mr. Speaker.

There are those of us who are held to a far higher level of accountability. And it reflects on what we have to stand for, as far as making sure, Mr. Speaker, that you are fair in how you deliberate. And so it is from that point of view of wanting our elections to be contested as fair as possible, that we need to embrace the spirit of some amendments. When we talk about modernisation, we need to do more things with regard to the Parliament Election Act, with regard to absentee balloting, with regard to fixed-term elections, with regard to looking at making sure . . .

For instance, Mr. Speaker, on the Order Paper right now, there is the Boundaries Commission Report, you know? If the Premier decides not to take up the Boundaries Report and the Government decides to call an election in a month's time, will we be operating on the revised boundaries that have been done by the Boundaries Commission?

Dr. the Hon. Ewart Frederick Brown: Point of information, if you want it.

The Speaker: Premier?

POINT OF INFORMATION

Dr. the Hon. Ewart Frederick Brown: Yes, Mr. Speaker.

I thought I explained this earlier. But I will try it again.

This is how it goes. The Boundaries Commission Report had to be tabled. Once it is tabled, a new election cannot be called unless that Commission Report is approved—accepted—by the House.

The Speaker: The Order, the actual Order.

Dr. the Hon. Ewart Frederick Brown: Right. Right. So you would have to come back to Parliament and have it approved in order to have an election.

So, relax! Just have a good summer.

[Inaudible interjections]

Hon. Hubert (Kim) E. Swan: Well, you know, Mr. Speaker, to have an explanation on the floor of the House is far more acceptable than the speculation that has to take place in and out of the Chamber. So I am very much appreciative.

[Inaudible interjection]

Hon. Hubert (Kim) E. Swan: No, but it is important. There are some things, Mr. Speaker, that it is far better to have on the record in the Hansard, clarified. And I appreciate it.

[Inaudible interjection]

Hon. Hubert (Kim) E. Swan: I know you did not, and you did, and I appreciate it. So we do not need to chirp it.

So, Mr. Speaker, in the spirit of the Parliamentary Election Act being brought forward today, I am most obliged now to Mr. Barritt because we got on the floor of the House an explanation that we have been trying to get take place on the floor of the House.

But on the fact of these elections that can be . . . and I know in Constituency Number 1 and in Constituency Number 4, both in 2003, it came down to eight votes, Mr. Speaker—two constituencies, eight votes. And in 2003, the first election under single-seat constituencies, Mr. Speaker, 75 votes spread across some five constituencies was the difference between—

[Inaudible interjections]

Hon. Hubert (Kim) E. Swan: Mr. Speaker, I heard interpolations that we lost.

But you know what, Mr. Speaker? When Honourable Members who for years represented a Party that parroted, and rightly so, one man, one vote of equal value, and today, because disparities suit them are showing how disingenuous they are. And, Mr. Speaker, that is why we are urging them to take on board with seriousness the spirit of this amendment Act, Mr. Speaker. Take it on board. And we urge the Government to come forth forthwith; protect the field.

There are some of us, Mr. Speaker . . . the Honourable Member Mr. James knows about golf. Some of us go in the bushes and the ball rolls and they do not tell. Some of us go in the bushes and the ball rolls, and we are duty-bound in our heart to do the right thing and penalise ourselves.

Do the right thing for Bermuda and make the playing field fair, Mr. Speaker. This is all this legislation is about, leveling the playing field, Mr. Speaker, leveling the playing field.

[Inaudible interjections and general uproar]

Hon. Hubert (Kim) E. Swan: Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Swan, Leader of the Opposition.

Any further speakers?

I recognise the Honourable Member, Dr. Gibbons, from Paget East.

Dr. Gibbons, you have the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Speaker.

I gather by looking at your watch, you were trying to send me a message. And I will be pretty to the point here.

Mr. Speaker, clearly, I think, the Honourable Member, Mr. John Barritt, needs to be commended for bringing this. This is a vexatious issue that I think many of us, particularly on this side of the House, have had to deal with—the issue of not being able to get the Parliamentary Registrar to shift a resident who can vote from one constituency where he or she has been registered to a constituency where they have moved.

But it was interesting, Mr. Speaker, because listening to the Honourable Premier, obviously there is an indication that the Government is looking at this. But that raises in its own right an interesting question because, technically, the Parliamentary Registrar is supposed to be independent—supposed to be independent of Government. So what Mr. Barritt, the Honourable Member, is doing here is clearly raising an issue that all of us in this House, not just Government, should be responsible for looking at.

Now, other countries deal with this through an election commission which is completely independent. So you do not have to depend on Government to make changes, because the commission can do it itself. And perhaps the Government, when they consider this, could look at that possibility. An election commission would be a lot fairer, because clearly the Parliamentary Registrar is still dependent on Government to get these kinds of issues done.

So I would just say that, Mr. Speaker, this deserves a broader look. My honourable colleague has simply catalyzed this. He has brought something which I think is elegant and creative because it depends on existing or former legislation, to be able to correct a problem which has obviously arisen since we have got rolling registration here. So I think this is an important issue.

Since Cabinet is obviously looking at this Parliament Election Act, I would also like them to look at another issue which has been raised to me, and that is the issue of the impact that modern technology is now having on elections. A number of us got a complaint that in the last election cell phones with cam-

eras were being used by people going into election booths to essentially take a picture of the ballot so they could prove to somebody that they voted a certain way.

Now, perhaps consideration was involved. I do not know, Mr. Speaker. But clearly that kind of issue is unfair. And I would say to Government and also to the Parliamentary Registrar (if he is listening), that consideration, serious consideration, should be given to banning cell phones in the voting booth because it has the possibility for essentially getting rid of this issue of confidentiality in terms of voting. And we all understand, Mr. Speaker—I do not need to spell it out to people—where this is going.

Mr. Speaker, I would like to commend my honourable colleague for bringing this. It is an important issue. And I hope Government will have a look at it. But more importantly, I hope the Parliamentary Registrar will have sufficient independence to say, *This is the kind of thing we need to do. These are the powers I need to have. Please, let us get it done.*

Thank you, Mr. Speaker.

The Speaker: Thank you, Dr. Gibbons, the Honourable Member from Paget East.

Any further speakers?

No further speakers?

The Honourable Member in charge, the Honourable and Learned Member, Mr. J. Barritt, has the right to reply.

Mr. John Barritt: Thank you, Mr. Speaker.

There is not a great deal to reply to, I do not think. I have taken note of the comments; I hope the Government has. I thank those who have spoken that have spoken support. I wish I had some indication from Government that when they do their review or continue their review that this is one of the matters that is and will be under consideration, because as you have heard already, Mr. Speaker, it is a challenging and vexatious issue and one that ought to be addressed.

That said, Mr. Speaker, I move that the Bill be committed to the Committee of the Whole House.

The Speaker: Any objection?

Agreed to.

Will the Honourable Member, Mr. W. Furbert from Hamilton West, I believe it is, please take the Chair of Committee?

House in Committee at 12:50 am

[Hon. Wayne L. Furbert, Chairman]

COMMITTEE ON BILL

PARLIAMENTARY ELECTION AMENDMENT ACT 2010

The Chairman: We are in Committee.

Member, do you want to speak?

Mr. John Barritt: Thank you, Mr. Chairman.

I move both clauses; there are only two. I do not think we need to be long at this. We have talked about it in principle.

Clause 1 is the short title.

Clause 2 is the amendment itself, which, as I say, is proposing to re-lift and put in the Act an old provision which gives the Registrar the power to maintain a true and more accurate record of persons to be registered to vote.

Clause 2 makes it the duty of the Parliamentary Registrar to keep the register under continuous review, Mr. Chairman, and provide a mechanism whereby, on reasonable cause, he may by notice require a registered voter to show that he or she is correctly registered. And you do that either by sending prepaid registered letter and/or by notice in the newspaper. And the person is given 30 days in which to respond, and then the Registrar can act. And where warranted, it says, the Registrar can remove them from the register. But the ultimate goal is to move them from where they are incorrectly registered to where they ought to be properly registered, Mr. Chairman. That is the import of clause 2, Mr. Chairman.

I will take any questions, if there are any.

[Pause]

Mr. John Barritt: No one wishes to speak, Mr. Chairman. Therefore, I move clauses 1 and 2 as printed.

The Chairman: Those who are in favour of the motion, say Aye. Those opposed, say No.

AYES and NOES.

The Chairman: The No's have it.

[Motion failed: Clauses 1 and 2 not passed.]

The Chairman: We will report to the House.

Mr. John Barritt: They would not even let me do the Preamble.

[Laughter and inaudible conversation]

House resumed at 12:53 Am

[Hon. Stanley Lowe, Speaker, in the Chair.]

REPORT ON BILL

PARLIAMENTARY ELECTION AMENDMENT ACT 2010

The Speaker: Is there any objection to the Report of the Committee as printed?

Agreed to.

The Bill has failed.

The next Order is Order Number 7, motion in the name of the Honourable Member Mr. Simons. Carried over.

The remaining Order Number 8 in the name of the Honourable Member, Mr. E. Richards, Devonshire East.

Mr. Richards?

MOTION

THAT REPORT OF PARLIAMENTARY STANDING COMMITTEE ON PUBLIC ACCOUNTS FOR FINANCIAL YEARS ENDED 31ST MARCH, 2007 AND 31ST MARCH 2008, TOGETHER WITH THE RESPONSE ON SAID REPORT PRESENTED BY MINISTER OF FINANCE ON 9TH JULY 2010 BE ADOPTED

Mr. Everard T. (Bob) Richards: Thank you, Mr. Speaker.

Yes, I realise the hour is late, and I will do my best to cover this matter quickly.

Mr. Speaker, I move that the Report of the Parliamentary Standing Committee on Public Accounts for the Financial Years ended March 31st, 2007; March 31st, 2008; together with the response on the said report presented by the Minister of Finance on July 9th, 2010, be adopted.

The Speaker: Any objection?

Agreed to.

Carry on, Mr. Richards.

Mr. Everard T. (Bob) Richards: Thank you very much, Mr. Speaker.

I do not plan to . . . I mean, I think all Members have my report, the Committee's report, and the Honourable Minister's response.

I would just like to make some brief bullet points on the Committee's report, just for information purposes.

[Inaudible interjections]

The Speaker: The Honourable Member Mr. Richards has the floor.

Carry on, Mr. Richards.

Mr. Everard T. (Bob) Richards: Thank you very much, Mr. Speaker.

I would like to start, actually, with a phrase out of the Minister's response, and if I can quote this: "The Public Accounts Report is a historical document." And while it is, actually, I think the year before I saw that same phraseology there. And the Minister says that, "While merely reporting on the Public Accounts Report conveys a sense of immediacy, nothing could be further from the truth," unquote.

It kind of indicates that what we are doing in the Public Accounts Committee does not have sort of a currency about it. And I do not think that is really the case. The fact is that the Public Accounts Committee Report investigates symptoms that occurred in the past. I mean, the words I said one second ago were the past and, therefore, historical. But we have investigated things that have happened in the past. But these are symptoms of disorders, attitudes, habits, and practices that continue to the present. So, therefore, their relevance is quite high.

Now, Mr. Speaker, as I said, the report that we have promulgated is divided up into sections. And I will just go through the sections and just make a few comments on each section.

There was a section on the qualified financials of the Government. Essentially, the issue here is that if the Government of Bermuda were a private sector company,. . . a company with qualified statements could collapse with qualified statements. Well, the Government I do not think is on the verge of collapse. But it is a question of reputation here. And, you know, we hold ourselves out to be a first-class jurisdiction, and I think if we are going to hold ourselves out as one, we should conduct ourselves like one. And part of that conduct, I believe, is to have the Government have clean financial reports. So I think that is the main thrust of that particular point.

The next point is that we had a section on Works and Engineering in two areas. One area dealt with the tendering procedures for the new court building. The thing that we were investigating was the fact that the technical offices of Works and Engineering made a recommendation and the Government, the Cabinet, decided to do something, which was within their power to do.

But the Committee recommended that when that happens, in the interest of transparency there should be some notation somewhere (now that we have done Public Access to Information and all that sort of thing) that explains the rationale behind that decision. In other words, if Cabinet decides to do Y and the technical officer recommended X, then, you know, people should know why they made that decision. So that was one of our recommendations.

The Committee also investigated the issues of the so-called bogus checks that surfaced during the period of time under review. And the Committee were satisfied that this matter was fully investigated, and

that was confirmed by Government House and there is no further action to be taken on that score.

Now, also, we investigated and commented on financial instructions as they related to Works and Engineering. Financial instructions prescribed that projects over $50,000 be supervised by the Works and Engineering experts, their building experts. And financial instructions prescribe that. But the Committee noted that during the period in review, there were projects at the Bermuda Airport, the new pier at Dockyard, I think the public golf courses, and TCD. All were projects where, if you like, the supervisory baton was handed off from Works and Engineering to the Department of Tourism and Transport. And that was the only time this happened.

I think we also thought that just the mere mentioning of it in the budget book was not sufficient. But we could not help but notice that there was a coincidence. You know, some of us in my line of work say there is no such thing as a coincidence. But we could not help but notice that there was a coincidence between the lack of supervision by Works and Engineering and the very large—where the supervision was handed over to the people actually doing the—involved with the contract.

So I think that that coincidence was very important to note, and it was noted in the Committee's report.

Now, I move on to the Department of Tourism and Transport, the Bermuda Department of Tourism in particular. This has become somewhat controversial, Mr. Speaker. I have received a letter here of complaint from the head of the Civil Service as to what we said in this report. It has been in the media; I did not get the letter until tonight, even though I heard about it this afternoon.

We as a Committee investigated the matter of GlobalHue at some length, I have to say. I think we interviewed the Department of Tourism people three times on this particular matter. And there seems to be some confusion, particularly on the part of the head of the Civil Service about the contract with GlobalHue and financial instructions. So I think I will talk about that a little bit just so that everybody can understand what we were talking about in this Committee.

There were two occasions where GlobalHue was retained as an advertising agency, the first time and the second time.

[Laughter]

Mr. Everard T. (Bob) Richards: I guess that is kind of obvious. Sometimes you have to state the obvious around here. Particularly in the lateness of the hour, maybe I really have to state the obvious.

The first time there were a number of applicants for the job, and Cabinet chose GlobalHue in the final analysis. We made some comments about the fact that it was not really an open tendering, but it certainly satisfied the criteria of having three bidders for the contract, because there were more than three. I think there were six bidders for the contract. And that was a process that was reasonably satisfactory.

The renewal of that contract, the Committee found to be totally unsatisfactory because it was essentially just rolled over. There were no other bids, nothing. It was just rolled over.

Now, how does this relate to financial instructions? You know, financial instructions are promulgated by the Ministry of Finance. And they are instructions to civil servants as to how they should conduct themselves as it relates to money issues. They are not discretionary. Financial instructions are instructions. They are not, you know, *You can do this if you want,* or, *You don't have to do it when you do not want.*

Now, much has been made of the fact that the decision to not put the renewal of the GlobalHue contract out to tender was a Cabinet decision. It is true. It was a Cabinet decision. But that does not relieve the civil servant of the duty to follow financial instructions. You know, if they want to change financial instructions, the Minister of Finance can change financial instructions. But as long as those financial instructions, for instance in this case, require three people to bid on the contract, the civil servant is supposed to do that. And that did not happen in this case.

So there is a difference between Cabinet making a decision and the civil servant actually executing. And what we were saying in our report is that civil servants have a duty to follow financial instructions. In other words, they are acting in some way as a check on the politicians. And that is the way this is supposed to work. But it did not work in this case because the Cabinet made a decision. The Permanent Secretary acquiesced to the Cabinet decision, breached financial instructions, and that is what we were complaining about.

The letter that I received from the head of the Civil Service is all wrong on this, all wrong. As a matter of fact, he has got the two occasions where GlobalHue was retained hind-part-before as well. So that is the important issue here. And when we as a Committee asked the Permanent Secretary if any Minister had forced or coerced or put undue pressure on her to do something that she thought was wrong—we asked that question point-blank, and she said no. Right? She said no. No Minister had done that.

When that answer was given, and we had a clear evidence of a breach in financial instructions, that is when we made the statement that we made in our report. So I just want to make that very clear.

Now, also in the same department there were issues of a value for money situation with GlobalHue and Cornerstone Media, particularly with Cornerstone Media. We just could not figure out what Cornerstone Media brought to the table. In the first contract for advertising, the media selection was outsourced to Cor-

nerstone Media and, you know, out of the $14 million, they got about $13 million of it. And that is when the Auditor General thought that their mark-ups were too high.

In the renewed contract, Cornerstone disappeared, and all of their function was done inside GlobalHue. And we could not figure out why that was not done by GlobalHue in the first place. All right? It did not seem that Cornerstone brought anything to the table at all. So we thought that this was not a good value for money proposition on the part of the Government, and we said so.

Now, let us move on because I know it is late.

We spent some time interviewing people from the Ministry of Finance. And you know, it is the Finance Ministry's job to basically ride herd on other departments, to make sure that there is no overspending. And that is the context in which we have looked at the Finance Ministry.

There are quite a few long paragraphs in this report on the Finance Ministry that I am not going to go over in any kind of detail here. But let it be sufficient to say that we found that there was a culture, if you like, a *laissez faire* culture, and that while the civil servants in the Finance Ministry really were supposed to be the sheriff, they really were not conducting their job in a way that seemed to have any effect on other departments. So we were not impressed with their ability to exert any kind of discipline within the Civil Service.

Also, Mr. Speaker, we have to comment. In the interviews with the people in Finance, I found that there was a sort of prevailing notion that these overspendings and this increase in the size of Government was okay. And it was okay because we have a big GDP; therefore, the Government should be big. In other words, you know, the GDP grows, the Government should grow.

I found that to be a nonsensical notion, totally nonsensical! The size of Government has to do with the services it provides, not the size of the GDP. So, you know, we measure the size of Government relative to GDP, but that does not mean that the two are logically connected because, in my opinion, they are not. And that notion, I think, was a sort of underlying thought process that fed into the *laissez faire* attitude that we found.

Let me sort of just close here on that, Mr. Speaker, because this has been a very busy session for the Public Accounts Committee. We have a lot more work to do. I know that the Auditor General has been doing some of the special reports. And we are not in any way close to finishing our mandate on behalf of the House of Assembly.

Let me say that—

[Inaudible interjections]

Mr. Everard T. (Bob) Richards: Well, I mean, that is up to the Government. You know? Yes, definitely. It is up to the Government.

[Inaudible interjection]

Mr. Everard T. (Bob) Richards: No. That is not my job. If they have done something criminal, Mr. Premier, prosecute them! Right? It is as simple as that. If they have done something criminal, prosecute them.

We are not accusing anybody in the Civil Service of doing anything criminal. But we have said that we found breaches of protocol. And the Public Accounts Committee, that is our job to do that. So, you know, it is not something that is popular, necessarily. I do not think you can win any popularity contests being on the Public Accounts Committee. But it is a very important aspect of our democracy.

Lastly, let me say, Mr. Speaker, that we did have the first *public* Public Accounts Committee meeting ever in the history of this country a few weeks ago. It was a very good meeting, and it was a meeting that created a great deal of interest on the part of the public. It remains to be seen going forward as we have more public meetings whether the public will continue to be interested. But the point is that, as a Public Accounts Committee meetings continue [to be held in] public, I think that some of the things that we find will be even more interesting. But again, it is all part of the support that we have and the checks and balances that need to be provided, particularly on the Executive Branch of Government.

Thank you very much.

The Speaker: Thank you, Mr. Richards, the Honourable Member from Devonshire East.

I now recognise the Honourable Member, Mr. W. Lister, from Sandys South Central.

Mr. Lister has the floor.

Hon. Walter M. Lister: Mr. Speaker, I am Chairman of the Audit Committee, as you know. And I have made a practice of trying to incorporate as many members as possible to attend the meetings. But I did attend a number of meetings for the Public Accounts Committee. I did attend the one regarding (as Mr. Richards referred to) the so-called bogus checks. But they were not so-called bogus checks; they were, in actual fact, bogus checks.

The other thing is that what happened in the Committee was that the Government, the Opposition members insisted on writing to the Governor to find out, what was the situation regarding these bogus checks. As soon as I saw the letter, the email, I wrote to Mr. Zane De Silva. And I said to the Honourable Zane De Silva, *The Governor is going to say to us, he cannot give us any information at this point in time because the matter is still under investigation.* And lo

and behold, that was the answer. It was understandable.

[Inaudible interjections]

Hon. Walter M. Lister: Well, 35 years of experience—do not say that. Do not say that *35 years of experience.* Just be quiet.

[Laughter]

Hon. Walter M. Lister: But anyhow, Mr. Speaker, I knew what the answer was, and I shared it with my colleague, the Honourable Member Mr. Zane De Silva. And so it was so done.

So, you know, we know, Mr. Speaker, they were bogus checks. And oftentimes I find . . . And the Opposition must have their say. Now, let me say this. The Opposition must have their say. And I give them that. And sometimes they do a good job of it. But the fact of the matter is that sometimes they say things which are incorrect. And of course, Government members know at the end of the day we will have our way and do the correct things according to as far as we see it.

For example, public orders, the number of orders, the number of contracts which we must go out to—well, in my capacity as Chairman of the Western Development Corporation and Chairman of the BLDC and these things, there are orders which are there, Mr. Speaker. For example, if you go ask for a contract on a specific thing and there are only three contracts or two contracts which are available, why are you going to hunt around to get a third contract because the order said so, just to have it in? It just does not make economic sense.

So you have to apply a degree of common sense to the issue. Sometimes, they do not come in. So what, are you going to go out and ask somebody, *Can I have a contract* just to satisfy this? No. The Government understands the position we are in. And you are telling the Government.

Why would you chase something which is not there? It is a false thing that they make up. I feel that, my estimation is that under the circumstances they have a responsibility. And I am not . . . the Chairman tries to do a good job. And I think he tries. He does try. Does not always succeed, but he tries.

But the thing about it is that we had Mr. Henry, Mr. Henry [PHONETIC] from the Department of Works and Engineering. And he gave an excellent explanation to all of the questions which were answered. The PS, Mr. Horton, was present. And if he could speak in this Chamber, he would say, *The answers that were given were satisfactory that this Government had done an excellent job under difficult circumstances.*

But you see, at the end of the day, the Opposition must have their say. And although sometimes they overdo it, I am not going to take it from them. It is not my responsibility. But I do have my say, and I try to make a contribution and keep them within, in order.

The GlobalHue was another meeting we had. I really do not know why they were invited so many times because they gave us the answer the first time. They gave us the answer the second time. And when we came together the third time, they gave the same answer.

[Inaudible interjections]

Hon. Walter M. Lister: You see? You see what I mean? You see?

You see, Mr. Speaker? They have their say. And they must have it. I am not going to dispute it. But that is what they say. But if you ask the three Members on the Government side, we understood the question the first time. But they never understood it even the third time. They are saying they gave different answers. It demonstrates an inability to understand the answer the first time.

[Inaudible interjections]

Hon. Walter M. Lister: Yes, I signed the report. You know, you have got to—

[Inaudible interjection]

Hon. Walter M. Lister: Yes, of course. Of course I signed the report! I signed the report, I signed the report. You sign the report, you know.

I want to show that at least some of the things there were correct. But there were some that were incorrect, you know, but I am not going to pick out—because that would not be fair to the Chairman, you know. You have got to respect the Chairman.

So, you know, but some of the questions that they wanted to dwell on GlobalHue were so far from the facts it was shocking. We had the last meeting, which was the public meeting, with the Department of Tourism there. And Mr. Griffith answered the questions effectively. And I was very satisfied with what he had contributed to the meeting. I was satisfied, Mr. Speaker.

Sometimes I am not quite sure what the two Government *[sic]* Members are looking for. I am not going to accuse them of being on a witch hunt, because that would be incorrect. But, Mr. Speaker, let me say this, is that when we have people come before us, the few meetings I was at, they told us the facts of the matter and I was satisfied with the facts of the matter. Now, it may be that the report may not speak to the facts of the matter. But I am speaking that the thing—every time they came, they explained. And they were questioned.

And that is what, actually, is their responsibility. They are not there to distort facts, just like I said

the way with the three contracts or the three tenders. They explained that in detail, why they had two tenders. Why would you have two tenders, Mr. Speaker? There is no one else available in that sector. Why would you go out and ask somebody who is not experienced in that sector to give you a tender? It just does not make sense. And I think the Government are being logical about the whole thing.

But, you know, as I said, the Opposition must have their say, and I am not going to take it from them, Mr. Speaker. Believe me.

The Speaker: You cannot take it from them.

[Laughter]

Hon. Walter M. Lister: That is right. I did not want to take it from them.

I signed the report, Mr. Speaker, for the sake of peace, really. But that is my point on it.

The thing about it is that I read the report, and there were a number of things with which I disagreed. But I had not attended all the meetings. It was not possible. So I cannot say things that happened in meetings. I was not there.

But at the end of the day, some of the questions on GlobalHue were piercing. But the answers, I think, were very, very factual. I am satisfied with the answers which were given by all of the persons who came there. All of the civil servants gave a valuable contribution. And these meetings are very interesting and everybody makes a contribution.

All I want to say is that, you know, the facts are the facts. At the end of the day, this Government is not going to deny the Opposition the opportunity to have their say, even though it may be incorrect sometimes.

The Speaker: Thank you, Mr. Lister, the Honourable Member from Sandys South Central.

I now recognise the Honourable Member from Paget West, Mrs. Gordon-Pamplin.

Mrs. Gordon-Pamplin has the floor.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Speaker.

Mr. Speaker, I could not allow the moment to pass without just taking issue with some of the comments that were made by the Honourable Member who just took his seat. As a Member of the Committee, you would be aware, Mr. Speaker, that there is always an option available to Members that if a report is drafted with which they do not agree they have the option of producing a report that is at variance with that which is signed. And if the majority of people do not like the report, then they can do a different report. And if there are one or two people who disagree, they have the option of submitting a minority report.

If the Honourable Member felt so aggrieved by the procedure and felt that the content . . . as the Honourable Member indicated, he does not know what the Government Members were looking for. I am assuming he meant . . . you said "Government." However, it might be that you mean the Opposition.

[Inaudible interjection]

Mrs. Patricia J. Gordon-Pamplin: That is all right. I accept. I accept.

But I can tell you that the Opposition Members look for the truth. We look for the truth because it is that truth that allows a committee to come with a report that does not just satisfy the perusal of the expenditure of Government, but a report that also speaks to the heart of accountability to the general public. Because what is expended and overseen by our Permanent Secretaries (PS) is not the Ministerial money; it is not the Department money. It is the public purse. And if we do not take that responsibility seriously, we would be derelict in our duties.

So when we attend those meetings, it is very important that we get to the bottom of what the issues are. And, as the Honourable Member indicated, he was not sure what was being looked for. Let me say that he misled the House because the first time he indicated that there were only two tenders when GlobalHue were brought on board in the first instance, and there were two tenders because they could not get a third. In fact, there were six tenders that were obtained the first time. But the second time, there were none.

I believe that the point that was made by the Committee is that a PS does not have the unilateral ability to make changes to financial instructions. They are required to carry out the terms and conditions of their employment. So if a PS comes before a Committee and says, *Nobody pressured me! I did everything that I was supposed to do of my own volition, based on the terms and conditions of my employment,* then if something goes wrong, that PS has got to take responsibility.

If a PS comes and says, *I had tremendous pressure from my Minister,* or from somebody else, then we can understand that perhaps it could be Ministerial interference—which has happened on a prior report. It could be Ministerial interference. It could be other extenuating circumstances. But to the extent that a PS says, *Nobody ever asked me to do anything with which I felt compromised or uncomfortable, and I would not acquiesce to any such requests,* then that says that they knowingly and soberly made the decision to follow a course of action that they followed. And, if that course of action is *ultra vires* the conditions set out in financial instructions, they have to take responsibility. It is as simple as that.

One of the things that obtained as a result of making a second question . . . because sometimes,

Mr. Speaker, when you ask a question some things do not ring quite true. And when you examine the responses, you are able to determine that, to the extent that something was not quite gelling, you have to examine it a little further. And what we found very interesting is that on further examination the Auditor General actually indicated that the responses that were obtained were inaccurate to a certain extent on a particular issue respecting GlobalHue and actually provided a copy of a letter that was written that was available in the Auditor General's files that the Committee had not had sight of prior to that particular meeting.

So we were able, as a Committee, to put the pieces together, recognise that there were deficiencies in the responses that came forward, and we were obliged to say so. It is as simple as that, Mr. Speaker.

Mr. Speaker, it was also important to mention . . . My honourable colleague, in introducing the comments tonight, made reference, unfortunately . . . And I think it was about the bogus checks. He said the "alleged bogus checks" or "so-called bogus checks."

[Inaudible interjection]

Mrs. Patricia J. Gordon-Pamplin: I am saying . . . I am saying . . . Will you please listen?

[Inaudible interjections and general uproar]

Mrs. Patricia J. Gordon-Pamplin: Just hold your horses.

My colleague made reference to the "so-called bogus checks." The report, Mr. Speaker, was specific.

I think that my honourable colleague misspoke, and I am going to correct him, because the report mentioned the episode of the appearance of "the bogus checks." Not "so-called." They were identified in this report exactly as they were, as the Committee found them to be—bogus checks.

I think it is important that we do not misstate what the Committee actually deliberated upon and what the findings actually were. The Committee determined the checks were bogus. They questioned, how did they get into the file? Wanted to know who had access to the file? Were they actually presented to a bank for cashing? Were the checks paid? Or who was the likely culprit, and who had a motive?

It was determined that, notwithstanding that we were not, I guess, detectives, per se, we felt that the information that we uncovered by delving and probing led us to believe that the checks may have been placed in the file by disgruntled former members of the construction team who had now been dismissed from the job, and that it was quite possible that it was done to embarrass senior Government officials. That was the finding of the Committee.

[Inaudible interjections]

Mrs. Patricia J. Gordon-Pamplin: We did not have that finding because one of the things that the Ministry indicated was that there was concern that a chief architect had been suspended in the process. And after the investigation, the individual was fully reinstated to his position in the Ministry.

So if there was a criminal act that had been perpetrated by any member of the Civil Service, then one would believe that the competence of the investigators in this case would have uncovered that. Now, how it was aided and abetted and how the information—

[Inaudible interjection]

Mrs. Patricia J. Gordon-Pamplin: It might very well be, because I just happen to know how the PS for Works and Engineering operates. Therefore, it may not necessarily have been needed. However . . .

But I think it was very important, Mr. Speaker, and I do not want to make light of this because I think that when these reports are issued they are issued very, very carefully, such that the detail contained therein can withstand the necessary scrutiny because these form part and parcel of records for all posterity. And it is very important that these records are accurate.

So I do not want for any Member of the Committee to feel as though they need to come to this Honourable House after the fact to make a comment that they did not like either the questioning or the report, when they had the option of ensuring that there was another minority report that they could totally have crafted and agreed with 100 per cent and been able to state to this Honourable House exactly what it is that they felt.

Now, having said all that, Mr. Speaker, I believe that it is incumbent upon me as a member of the Committee to actually commend the Minister of Finance in the final analysis, because you will know, Mr. Speaker, that on the day that the PAC Report was tabled, the Minister, obviously having had prior sight of the report, actually tabled the response that was able to be appended to the report on the same day. And that did actually serve the purpose of minimising the noise, as I believe it was the way the Minister indicated. It minimised the possibility that the press or anybody else could have had any misunderstanding that the Ministry had looked at the criticisms.

The Ministry concurred with the criticism, responded to the criticism, recognised the areas of deficiency and the areas that could perhaps be looked at for better governance on a prospective basis, and ensured that the two reports (that of the PAC and that response by the Minister) appropriately reflected not just the investigations that had occurred, but the Minister's response to those investigations.

I believe that that is extremely important, Mr. Speaker. We found, as my honourable colleague alluded to, one area which was particularly weak. And that is the area in which the Department of Works and Engineering were relieved of their responsibility for oversight on capital projects. There are reasons why those checks and balances come into play.

We heard the Honourable Premier this morning make mention that $44 million or $46 million escalated up to $60 million on a particular project. And yes, there were overruns, and yes, that is what happened. But there was nobody in the Department of Works and Engineering who had oversight during the currency of that development. And when those things happen, when there are cracks in the armour in terms of ensuring that the public purse is protected, when money starts falling out the bottom end of the kitty, Mr. Speaker, there has to be some level of accountability.

And one would believe that those people who have the expertise and the wherewithal and the responsibility, based on the Works and Engineering Act, would then have the ability to have a proper, effective oversight of Government capital projects. So if they come in tremendously over budget or whatever, there is another check in the process. And that, if the Public Accounts Committee does not take regard of that particular fact, we will have failed.

Mr. Speaker, when I sit on any Committee, as do my colleagues, we ensure that our work is done effectively, that our work is done diligently, and that any report that comes to this Honourable House is as accurate as it can possibly be, because we have a responsibility to guard the public purse and to ensure that every civil servant, in the expenditure of every dime of public money, performed their duties in accordance with their terms of reference.

Mr. Speaker, it gives me pleasure to be able to make reference to this report tonight. And hopefully, when we proceed with the next level of negotiations and discussions and queries and the like, we will be able to bring a similar report to this House. But I certainly hope that the Honourable Member who sits on the Committee will find that if he is not present that does not make an excuse; and that if he finds that the report is not palatable, then he needs to do the work to do a minority report.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mrs. Gordon-Pamplin, the Honourable Member from Paget West.

Are there any further speakers?

I recognise the Honourable Minister, Mr. Zane De Silva.

Ah! Are you going to yield?

Hon. Zane J. S. De Silva: I will yield to the Deputy, yes.

The Speaker: Well, the Honourable Member, Mr. Z. De Silva, from Southampton East Central has the floor.

Minister?

Hon. Zane J. S. De Silva: Thank you, Mr. Speaker. And I thank you, Deputy.

I just have a question for the Chairman of the Public Accounts Committee. I would certainly . . . yes, Mr. Richards, indeed, the Honourable Member. I would just like this question to be answered, because I sat on that Committee at one stage, and of course, upon my appointment to this position I was taken off the Committee.

I remember that the Honourable Member, my colleague, Mr. Walter Lister, had requested that a letter be sent to the Governor, you know, to ask for some assistance. And, if I remember correctly, I believe my honourable colleague had stated at the time that, *You know, I know what's going to happen, Zane. We're going to get a reply. The answer, I already know, is that he can't do anything. The circumstance is beyond his control.*

Did we ever get a letter back from the Governor? I am asking the Chairman. And if we did, what was his reply?

The Speaker: Thank you, Minister De Silva, from Southampton East Central.

Any further speakers?

I recognise the Honourable Member, Dr. Gibbons, from Paget East.

Dr. Gibbons has the floor.

Dr. the Hon. E. Grant Gibbons: Thank you, Mr. Speaker.

It is probably appropriate that I speak before the Minister of Finance because I have questions for the Minister, which I did not notice were answered in the actual report itself.

I am looking at the Auditor General's report for the fiscal year ended 2008. And there are a number of things that were flagged in that particular report. Some of them were tackled by the Committee and others were not. They included inadequate controls over bank accounts, auditor independence, and doubtful appropriateness of certain payments.

One of the questions I have particularly relates to the inadequate controls over bank accounts. I recognise that this is a historical report, nevertheless, this was a longstanding problem, that is, controls over bank accounts. It involved serious defalcation on the part of certain bank accounts, certain individuals within the public service. And I would just like to be assured that these bank accounts which the Auditor General referred to—some 60 bank accounts as being seriously deficient still—I would like to have some assurance from the Honourable Member that those bank accounts are being effectively reconciled and checked

on a regular basis and that those are actually up to date on a regular basis, because clearly you have to follow the money. And there has been, as I said, some serious (as Honourable Members know), serious defalcation.

The other issue I have is on page 11 of the report. And the Auditor General again says that among the most delinquent in financial reporting are some of the Government's pension and insurance funds. These funds hold almost $1 billion in investments and other public assets, and are under the administrative responsibility of the Ministry of Finance, the Ministry with overall responsibility for the Government's accounting and financial reporting.

There is clearly a table on page 10 of the report, and it shows some of these contributory pension funds, the employees' health insurance fund, hospital insurance fund, mutual reinsurance fund, going back several years in terms of not being effectively audited. I would like to get some sense of whether those funds have been anywhere near brought up to date at this point, because obviously there is a lot of money in them. And the issue is an important one, I think, given the broad-spread impact of those particular funds.

The Auditor says on page 12, that despite the considerable encouragement and resources provided by the Ministry of Finance, the situation has actually worsened. So, again, I would like to get some sense of where we are on that particular issue, Mr. Speaker.

The other question I have is . . . and this has been an issue which, apparently, has been set as policy by the Ministry of Finance. And that is not doing business with companies that are persistently in arrears on their payroll and/or pension contribution remittances. The question for the Minister of Finance is, Are there any companies that the Government is now doing business with that are in arrears with their payroll and/or pension contributions and remittances? And, if so, why is that policy not being followed?

The Speaker: In actual fact, none of those matters are really set out in the report that we are debating.

Dr. the Hon. E. Grant Gibbons: Mr. Speaker, you are quite right.

The Speaker: Good. Good. Good.

Dr. the Hon. E. Grant Gibbons: But as you know, we are not allowed—

The Speaker: But you are going outside the report.

Dr. the Hon. E. Grant Gibbons: No. No, Mr. Speaker. We are not allowed—no, no. We are not allowed to speak to the Auditor General's report until the Committee has actually considered it. The Committee *has* actually considered it at this point, although the Chairman said there may be further review here. As the Committee has now opened season on this particular report, I think it is only fair to ask some of these questions as well.

The Honourable Member who chairs the Committee will know that they only have a certain amount of time to deal with a certain number of issues. I am simply asking a few other questions which were highlighted as serious and deficient in the Auditor General's report.

On page 20, for example, we see that pension contributions, payroll tax, and land taxes delinquent have gone up to some $51 million in 2008. That is almost double where they were in 2000. Now, I understand those amounts are greater now than they were. Nevertheless, this issue of delinquent payroll, pension, and land taxes is clearly a serious one. The Government has run a deficit now two years in a row. If some of these monies were collected a little more aggressively, then maybe they would not be in the position that they are in, or the position would not be as bad as it currently is.

The Speaker: [Inaudible] We are so late we might be more amenable to it. Carry on.

Dr. the Hon. E. Grant Gibbons: You are absolutely right, Mr. Speaker.

Mr. Speaker, you will be pleased to know that I have only have two more issues I would like to raise.

The Speaker: Go right ahead.

Dr. the Hon. E. Grant Gibbons: One of them is with respect to Bermuda College. It is on page 72. This is another, I guess, quango in this particular case, where the financial reporting—according to the Auditor General—is seriously behind. I think this is an important issue because the Bermuda College is obviously trying to get its accreditation. The last dated report to the House of Assembly [is] 2004, and some of these audited financial statements [are] a number of years behind. I have to ask why the Minister, in this case, of Education, has allowed that to continue in quite that way. I think this is an issue that needs to be addressed.

Finally, I guess the question I have is, the National Drug Commission was an absolute mess. It was dealt with in a number of reports to the Public Accounts Committee. It would be interesting to know, as has been recommended by the Auditor General, whether any further action has been taken against civil servants who are required to oversee what was referred to the police as "criminal activity." Clearly, the civil servants involved in this had some oversight responsibility. It did not happen to the degree that was required.

And the question I have is, Where does that matter currently stand? Not only with respect to following up on those where there was apparently an allega-

tion of criminal misuse of funds, but also with respect to who was watching the shop from a Civil Service perspective as well. And what, if anything, has been done to address that?

Mr. Speaker, I appreciate your indulgence and your patience. And I hope I will get some answers. Thank you, sir.

The Speaker: Thank you, Dr. Gibbons, the Honourable Member from Paget East.

Are there any further speakers?

No further—

I now recognise the Honourable and Learned Member, Minister P. Cox, from Devonshire North West, Minister of Finance.

Hon. Paula A. Cox: Thank you, Mr. Speaker.

Mr. Speaker, we have spent most of the day today talking about issues pertaining to governance and controls, whether we have been talking about issues pertaining to PATI, which is freedom of information and the controls, whether from an economic and financial control aspect, or whether we have been talking about issues pertaining to municipalities and how we can deal with issues of governance and efficiency there.

I think it is important to note that the Office of the Public Accounts Committee is a key one. But I think that, as one does the job, and as the Members do the job, because certainly it has come to my attention, those civil servants and Ministers on Mondays and Tuesdays have their respective meetings, which are totally separate. I certainly have been advised that there was quite a stir in Monday's CSE, Civil Service Executive, meeting. And I think it was because the civil servants, top civil servants, Financial Secretaries, Cabinet Secretaries, Permanent Secretaries, felt very much hard put upon by the Public Accounts Committee.

I think that often because there is supposed to be, notwithstanding involvement at a political level in terms of marching on Government policies, there really should be a separation in terms of the political role and the policy-making role versus the functionary role. And I think it is important for us as legislators and also those who are entrusted with responsibility to make sure that we are not seen to be targeting or unduly pressuring, or personal, or attacking these civil servants.

They certainly have a responsibility in terms of accountability, answerability, and certainly responsibility. But I think it is important that, in seeking to be inquisitorial, that one remembers that they are not the politicians. And it is the politicians, even when we may not be personally culpable, who certainly the buck stops with. And I think that is important to say for the record.

I think certainly, Mr. Speaker, though I am not going to get into the details of the Auditor General's report, I am dealing with the response. I think in terms of particularly the last question raised by the Shadow Spokesman, in terms of the NDC, I think it is important for context because I think, by sleight of hand in this place sometimes, we tend to muddy the waters by equivocation and half-truths sometimes, to slant the truth the way we wish it to come out to.

I think it is important to note that, with regard to the NDC and the lapses there, they were identified by action from the Government by calling in the internal audit function. It was under a prior Minister, the previous Minister who had responsibility for Culture and Social Rehabilitation. But I think, certainly, one could rest assured that there was certainly action taken, both disciplinary action, employment loss, and in terms of whether there were criminal charges pending. The Minister who has responsibility might be better placed than I, but, certainly, I know there was the most activist approach taken to make sure that there were sanctions, and sanctions at the highest level, which had consequences for persons' livelihood.

I think, Mr. Speaker, as we look at controls and the strategy and internal controls and the components, the issues that it is important to focus on are that certainly you want to ensure you have governance, and that means consisting of an institutional framework and also an internal control review schedule. You also must have an internal control plan, which certainly specifies the assessable units, the processes, the control objectives, the activities, and the risks. You certainly want to make sure you can document the inherent risks and likelihood of risk occurring.

You know, Mr. Speaker, you should know (and if not, I am pleased to inform you) that Government has certainly had a thorough risk review. And where the issues have been highlighted, they are certainly being addressed, tackled, in some cases have been remedied and rectified. Part of that means that it is important to know and scope out, in terms of risk assessment, what the state of play is so you can also assess where the areas of weakness and vulnerability are, both in terms of structural, as well in terms of personnel.

I think if we then talk about an internal control review, we are using an assessment tool to determine whether the controls are adequate, whether they are working as intended, and whether new controls are needed. And of course, there is always the feedback loop, which means reporting and dealing with what has been identified and what are the areas which are weakness and material weaknesses, non-conformances, and reportable conditions.

Certainly, finally, in terms of closing the loop, which is what we are in the business as Ministers and as policymakers, and also as the civil servants, what is key is the fact that when there is a weakness flagged, that there is the corrective action and remediation. And that is the vital role that is played, not just

at the management level, not just at the ministerial level, but also in terms of our controls, processes, using the tools available such as the role of the Public Accounts Committee.

I thoroughly welcome their efforts, but I am particularly happy that we have it in open court to some degree. As I have always said, from I think several years ago when I saw it working in the UK, I liked the framework. I said at that time that what made it important, though—and I think that we still have not advanced to that degree—is the fact that they made sure they took the politicians and the ability to pontificate and politically posture out by making sure that they did not have a senior member of the Opposition as the chair.

In other words, you would not have there the chair, the Shadow Minister of Finance chairing that. They took somebody who was an elder statesman, who had nothing to gain, who was not political in, I suppose, the hard grunt of political life. So you felt that there was the idea of objective neutrality in terms of the assessment and carrying out and discharging of their functions.

We have not yet evolved to that stage. But I think certainly it is very good that it is in the public domain. I think it is helpful in terms of the accountability aspect.

I am not at this stage going to go through chapter and verse of the, I think, very detailed response. But I think it is important to note some of the very positive measures that the Government has undertaken to enhance the public financial management. Certainly these include the following:

- The Accountant General has concluded the implementation of a Government accounting infrastructure that involved placing qualified accountants throughout government at the departmental and ministry level, to ensure financial controls were approved and accounting needs were met.
- Also, there was the coordination of government's financial direction by bringing together key accounting personnel within government and in the quangos for quarterly strategy meetings.
- Further, there was the provision of additional resources within the Accountant General's Department to improve operations, accounting systems, and the internal control environment across government.

I believe, Mr. Speaker, that speaks to one of the questions raised by the Shadow Minister who speaks for Education.

There is also the issue of the re-establishment of the Internal Audit functions. And you will note, Mr. Speaker, that to make sure, and for the avoidance of doubt, even when there were issues that the Government, having heard and listened to comments made from the Opposition with regard to how that Act could be strengthened, sought to make further refinements and enhancements so that you had, I suppose, even more independence injected into an Internal Audit Committee.

Mr. Speaker, we also talked about the execution of a risk assessment. I referred to that just a few minutes ago when I said of our risk assessment done of government, a risk assessment of the entire government of Bermuda to identify, categorise, and prioritise the risk. And also, there is the updating of financial instructions. And in speaking to that, Mr. Speaker, these financial instructions are very much a guide. They certainly set out what should be best practice in terms of those who are the chief accounting officers within the various departments and ministries of the Government.

I think probably two of the most important areas, there is a lot of detail as to what you have to do and who has the signing authority, the checks of over $100, or something of that nature. And it certainly goes up in various tiers. But probably what I think is probably one of the most key areas are the headings entitled "Value for Money," which deal with the issue of economy, efficiency, and effectiveness and details the responsibilities of the accounting officers and employees.

But I think what is also equally important is when you look at the issue of the contracts, agreement for goods or services. It sets out, really, Mr. Speaker, that where there are quotations or tenders accepted for the supply of goods or services in excess of $50,000, they certainly must be documented in a written agreement or contract. And they indicate in your financial instructions, it sets out some of the criteria that should be looked at.

They say in drafting a contract, issues that should be considered are the considered tender for contract. And I say that, Mr. Speaker, because, while we must all appreciate that tendering is best practice and the ideal, there are sometimes circumstances where, because of the need to move expeditiously and where a Minister sets out in writing, or his chief civil servant sets out why there is a variance from what should be the best practice, then you have to certainly explain why. Is it because of time constraints? Is it because somebody is known and there is nobody else with that expertise? But certainly, there is not a requirement that says, *You must.* But it says, *Consider tender for contract.*

It also says you specify the parties. You set out the penalties or recourse for non-compliance with contract terms. And there is a whole shopping list of criteria that is prescribed in terms of financial instructions.

I think what we are at now, Mr. Speaker, is looking at how much further one can take it? In terms of improving the model, in terms of raising the bar, and in terms of overlaying additional controls, in terms of looking at, certainly, what should be international

best practice. Financial instructions are good insofar as they go. But certainly, I think there has been flagged a need to further improve, tighten, and buttress and bolster the system of controls so it can be made even more robust.

Mr. Speaker, some of the issues that have been focused on are how one can certainly differentiate and define the controls; the reporting and approval requirements that should be applied to small, medium, and large projects; and certainly looking at how the business cases can be further improved. And also, Mr. Speaker, ensuring that there are the adequate, trained resources available for project management to harmonise existing processes and policies and procedures to ensure they are both relevant and consistent; and certainly to look at developing additional controls during the procurement process to help ensure transparency. And certainly also providing, where necessary . . . because personnel management is very important. You want to make sure that you provide additional training regarding policies and procedures for user departments.

I think, Mr. Speaker, the diagnostic review that the Ministry of Finance commissioned by an independent third party provider here in Bermuda is going to be very helpful and very constructive in seeing us enhance the system of existing controls.

Mr. Speaker, in closing, I certainly would take tremendous exception to any assertion, allegation, inference, that there is any *laissez faire* approach by the Ministry of Finance or the Ministry of Finance's top civil servants. Nothing could be further from the truth. If anything, we are seen to many . . . and you see it in terms of some of the difference, I suppose, sometimes if you are looking at it in the private sector, and you are looking at the difference in an insurance environment, you are looking at the roles and responsibilities of those who are in underwriting, writing insurance, and those who provide the legal aspects and compliance. If anything, the lawyers are seen sometimes as impediments to those who want to do the business.

Mr. Speaker, I would say that, if anything, the Ministry of Finance is seen as probably very, unduly by many, unduly pedantic, restrictive, and an inhibitor to the ability for persons in various ministries and ministers to be able to execute as expeditiously as they would like, because of the layer of ring-fencing and controls and compliance and governance procedures that we insert into the system.

Mr. Speaker, let me be very clear and unequivocal: That will not change.

So with those comments, I am pleased to take my seat. Thank you.

The Speaker: Thank you, Minister Cox, the Honourable and Learned Member from Devonshire North West.

Any further speakers?

No further speakers.

The Honourable Member, Mr. E. Richards, is going to reply.

Mr. Everard T. (Bob) Richards: Thank you very much, Mr. Speaker.

In answer to the question posed by the Honourable Minister De Silva, yes, the Committee did write to Government House to His Excellency, and we did get a reply. If I might sort of paraphrase the reply, the reply was that the matter of the checks was fully investigated and that no further action will be taken. That was the answer we got.

[Inaudible interjection]

Mr. Everard T. (Bob) Richards: No. There is nothing else other than what I said.

[Inaudible interjection]

Mr. Everard T. (Bob) Richards: Okay. Okay. That is fine.

Hon. Walter M. Lister: Point of order, Mr. Speaker. Point of order.

The Speaker: There is a point of order.

POINT OF ORDER

Hon. Walter M. Lister: My understanding was, and I think Mr. Zane De Silva's understanding was, that the Governor was unable at that point in time to give us any further information on that matter. That was our understanding.

Is that not correct, sir? That is what we understood.

Now, this is a totally different answer. The Committee never saw that letter.

Thank you.

The Speaker: Thank you, Mr. Lister.

Carry on, Minister, the Honourable Member Mr. Richards.

Mr. Everard T. (Bob) Richards: I know it is late in the evening, Mr. Speaker. But what I just related, I cut and pasted from the report we are just discussing, the same report that the Honourable Member signed. So I am not going to even go there. Right?

[Laughter]

Mr. Everard T. (Bob) Richards: Just in wrapping up, I would like to sort of . . . I heard the Honourable Minister's comments on my comment on *laissez faire*, and my colleague and I were conferring. And that comment came out of an interview that we had with a senior member of the Finance Ministry. When he was

questioned about cost overruns, budget-busting cost overruns, he pulled out a file that contained elements dating back to 1968 and said, you know, *We have always had budget overruns. There have always been budget overruns.*

Basically, the message was, you know, *Get used to it. It has always happened, and this is the way life is.* And we came to the conclusion of *laissez faire* because that was one of the reasons that we came to this conclusion. So the Minister is entitled to her opinion, and we are entitled to make observations as we see fit.

And with that, Mr. Speaker, I will take my seat.

The Speaker: Any objection to the report?
Agreed to.

[Motion carried: Report of the Parliamentary Standing Committee on Public Accounts for Financial Years ended 31st March, 2007 and 31st March 2008, together with Response on said Report presented by Minister of Finance on 9th July 2010 adopted.]

The Speaker: Mr. Premier, that is the final matter. I believe there are going to be third readings.

Are there third readings?

SUSPENSION OF STANDING ORDER 21

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Speaker.

I move that Standing Order 21 be suspended to enable me to move the Bill entitled the Public Access to Information Act 2010 be now read a third time.

The Speaker: Any objection?
Agreed to.
Yes?

[Motion carried: Standing Order 21 suspended.]

THIRD READING

PUBLIC ACCESS TO INFORMATION ACT 2010

Dr. the Hon. Ewart Frederick Brown: The Public Access to Information Act 2010, that it be read the third time by its title only and passed.

The Speaker: Any objection?
Agreed to.

[Motion carried: The Public Access to Information Act 2010 read a third time and passed.]

The Speaker: Thank you, Premier.

SUSPENSION OF STANDING ORDER 21

Dr. the Hon. Ewart Frederick Brown: Mr. Speaker, I move that Standing Order 21 be suspended to enable me to move that the Bill entitled the Motor Car (Amendment) Number 2 Act 2010 be now read a third time.

The Speaker: Any objection?
Agreed to.

[Motion carried: Standing Order 21 suspended.]

THIRD READING

MOTOR CAR AMENDMENT (NO. 2) ACT 2010

Dr. the Hon. Ewart Frederick Brown: The Motor Car Amendment (No. 2) Act 2010 be now read the third time by its title and passed.

The Speaker: Any objection?
Agreed to.

[Motion carried: The Motor Car Amendment (No. 2) Act 2010 read a third time and passed.]

The Speaker: I now recognise the Honourable Member Mr. Z. De Silva. Minister De Silva from Southampton East Central has the floor.

SUSPENSION OF STANDING ORDER 21

Hon. Zane J. S. De Silva: Thank you, Mr. Speaker.

I move that Standing Order 21 be suspended to enable me to move that the Bill entitled the Municipalities Reform Act 2010 be now read a third time.

The Speaker: Any objection?
Agreed to.
Carry on, Minister.

[Motion carried: Standing Order 21 suspended.]

THIRD READING

MUNICIPALITIES REFORM ACT 2010

Hon. Zane J. S. De Silva: Mr. Speaker, I move that the Bill entitled the Municipalities Reform Act 2010 be now read the third time by its title only and passed.

The Speaker: Any objection?
Agreed to.

[Motion carried: The Municipalities Reform Act 2010 read a third time and passed.]

The Speaker: Mr. Premier, I do not believe there are any further matters. We have had third readings.

Dr. the Hon. Ewart Frederick Brown: Yes.

The Speaker: I recognise Mr. Premier.

ADJOURNMENT

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Speaker.

I move that the House do now adjourn until November 5, 2010.

The Speaker: November the 5th. Are there any objections to that motion?

Agreed to.

You are going to adjourn.

Dr. the Hon. Ewart Frederick Brown: To November 5th.

The Speaker: Any objection to the second motion that the House be now adjourned?

Agreed to.

The Speaker: Let us see. Do you want to lead? No, nobody would—

An Hon. Member: I will do it last. I will do it last.

The Speaker: Yes, yes. Were you rising to—

An Hon. Member: Yes.

The Speaker: Yes. I want to be sure to get you in before the Premier.

Mr. Darius D. M. Tucker: Yes. I do have something to say.

The Speaker: I recognise the Honourable Member, Mr. D. Tucker.

MORGAN'S POINT PROPERTY

Mr. Darius D. M. Tucker: I will be brief, but it is just something that I was . . . It is a little disturbing to me, personally, Mr. Speaker, and to quite a few people, to some people that have mentioned it to me, that today the Government brought forth a Bill to deal with the 9 Beaches.

[Inaudible interjection]

Mr. Darius D. M. Tucker: Yes, yes. It was brought forth, and it was dealt with, and that is fine.

But also, there was—

The Speaker: That was not a Bill, but a submission.

Mr. Darius D. M. Tucker: A submission, okay, a submission. Thank you, Mr. Speaker.

The Speaker: Or a lease.

Mr. Darius D. M. Tucker: Or a lease. Thank you for your indulgence and your guidance, Mr. Speaker, and I am grateful.

But, Mr. Speaker, there is another hotel acquisition that has been in the newspapers from time to time, and that has to do with the Morgan's Point property in the Southlands. And it has been brought to my attention by some people within that particular entity that the bills have slowed down once again with this particular property. And I would just like to know if we are going to be coming back to this Honourable House to have a special session to bring that forward for that particular entity so that we can afford them the opportunity to go ahead with their development.

I would just hope that the process is going ahead as fast as it possibly can for those particular developers.

[Inaudible interjection]

Mr. Darius D. M. Tucker: As I was saying, I would hope that process is going ahead as fast as it possibly can for those developers because quite a bit of money is being laid out by those developers for that project as the days go by. And I would just hope that all is being treated well and fair.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Tucker.

No other Members indicated that they wished to speak.

I recognise Mr. Premier. Mr. Premier has the floor.

FINAL SPEECH BY HONOURABLE PREMIER

Dr. the Hon. Ewart Frederick Brown: Thank you, Mr. Speaker.

Mr. Speaker, let me first thank you for your indulgence and that of this Honourable House in permitting me to formalise my final speech as Premier in this great Assembly.

Mr. Speaker, 17 years ago I made my maiden speech from a seat almost directly opposite the one I will occupy for just a few more minutes.

Opposition in 1993 was exciting. Everyone knew we were on the cusp of victory. I shall defer to others any comment on the ready symbolism of my own victory in Warwick West. For me, it cemented my gut feeling that Bermuda could and would embrace change.

That change started with the fine people of Warwick West and has ended with the wonderful people of Warwick South Central. The constituents I have

been honoured to serve have been loyal, patient, and genuine. Mr. Speaker, there is no greater, humbling honour than to earn the people's trust. And I am eternally grateful to my constituents who on four occasions have sent me to represent them.

Mr. Speaker, the modern political history of our Island records that change did come, and in three successive elections the people of Bermuda have entrusted the Island's affairs to the Progressive Labour Party.

A child born on the day that I was first elected to serve in this Honourable House will be eligible to vote in the next general election. That child knows virtually one Government. For them, we represent their status quo.

Mr. Speaker, as I reflect on my Parliamentary career and, more particularly, on my service as a member of the Government, I believe that so much has been done tangibly and symbolically for this country that the accurate historian will label it growth, change, and empowerment. How my Government is judged seems based on a number of factors, and that is as it should be. For those still intent on judging me, permit me to commend to you the words of Franklin D. Roosevelt: "I ask you to judge me by the enemies I have made."

It is important to recognise that I do not consider Members opposite as enemies. The Opposition has a vision for this country, with which I strongly disagree. That is the nature of our business, and that difference of vision, no matter how sharp the debate, cannot make us enemies.

Mr. Speaker, a contest to succeed me is likely to start in earnest once your gavel adjourns these proceedings. The movement to unseat me would seem to have started in November of 2006 and persists beyond my declaration of departure.

I am no prophet, nor have I a crystal ball, like one Honourable Member. I cannot say who will next address you from this seat. What I can say is that the only guarantee of full, unbridled affection in this office is to do nothing and do it very well. Mr. Speaker, if one proposes to cut one blade of grass from this seat, rest assured, there will be special reports. Cause one new idea to see the light of day, and cedar beams will appear in your home. Seek to govern in any sense of that word, and your spouse and family become fair game.

For whoever assumes this yoke of service in my stead, fret not at what your new enemies say and do. Lead in this Honourable House by example and from the front. Be measured by your oratory, your record, and your legislative commitment to improve the lives of the people.

The great work that remains undone is the psychological freedom of independence. The veil of affluence and material comfort has numbed the senses of our people, and for that we are all to blame. True self-determination can be achieved. And I am strong in my belief, as I was in the 1960s when our brethren to the south were making the transition.

Mr. Speaker, I am proud of my service. I am grateful for the camaraderie of these hallowed halls and for the working friendships it has allowed me to form. As I close this chapter in service to my country, to looks of relief on the faces on the walls, my regrets are personal and not political. My list of checked boxes far exceeds the undone, and even those welcoming my exit will concede that all my effort has been put into this work.

Mr. Speaker, I close with the words of the American poet Robert Frost, words which speak to me at my sunset, but equally challenge those still in the morning of their service. And I quote:

[The Road Not Taken]

Two roads diverged in a yellow wood,
And sorry I could not travel both
And be one traveller, long I stood
And looked down one as far as I could
To where it bent in the undergrowth;

Then took the other, as just as fair,
And having perhaps the better claim,
Because it was grassy and wanted wear;
Though as for that the passing there
Had worn them really about the same,

And both that morning equally lay
In leaves no step had trodden black.
Oh, I kept the first for another day!
Yet knowing how way leads on to way,
I doubted if I should ever come back.

I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I—
I took the one less travelled by,
And that has made all the difference.

Thank you Mr. Speaker, and may God bless you, my honourable colleagues, and the work of this Honourable House.

Thank you.

[Prolonged desk thumping]

The Speaker: Thank you, Mr. Premier. I think they call that the swan song.

The House stands adjourned until Friday, November 5, 2010, at 10:00 am.

[At 2:14 am (on July 24th, 2010), the House adjourned until November 5, 2010.]

BERMUDA HOUSE OF ASSEMBLY
OFFICIAL HANSARD REPORT
(2009-2010 Session)

7 May through 23 July 2010

INDEX

Monthly Electronic Versions breakdown of page numbering:
7 thru 28 May 2010, pages 1–324
4 thru 25 June 2010, pages 325–574
2 thru 23 July 2010, pages 575–1060

Index is arranged alphabetically by "Order of Business" and by MPs' names. "Bills" are arranged both alphabetically and procedurally (i.e., Introduction, Second Reading, Committee, Report, Third Reading).

A

Adjournment, Motions on:
- Achilles Bay Beach
  - Smith, Hon. Dame J., 322
- Atlantic Resort Hotel Development
  - De Silva, Hon. Z. J. S., 573–574
  - Simons, Mr. N. H. C., 572–573
- Auditor General blocked from getting access to financial systems of Ministry of Finance
  - Gibbons, Dr. the Hon. E.G., 909–910
- Bermuda College-Coco Reef Lease
  - Cox, Hon. P. A., 173–174
  - Gibbons, Dr. the Hon. E. G., 160–163
  - Gordon-Pamplin, Mrs. P. J., 173
- Bermuda Hospitality Institute
  - Gibbons, Hon. E. G., 304–305
- Bermuda's Aircraft Registry
  - Furbert, Hon. W. L., 167–168
  - Gordon-Pamplin, Mrs. P. J., 170–171
  - Richards, Mr. E. T., 168–170
- Bond Issue
  - Gibbons, Dr. the Hon. E.G., 909
  - Richards, Mr. E. T., 906–907
- Cricket Management Practices
  - Tucker, Mr. D. D. M., 907–909
- Crime in Bermuda
  - Barritt, Mr. J., 307–308
  - Butler, Hon. D. D., 318–320
  - Cox, Hon. P. A., 324, 533–534
  - Gibbons, Dr. the Hon. E. G., 303
  - Horton, Hon. K. H. R., 305–307
  - Lister, Hon. T. E., 301–303, 531–533
  - Moniz, Hon. T. G., 316
  - Perinchief, Hon. W. N .M., 311–313
  - Swan, Hon. H. E., 298–299, 528–531
  - Swan, Mr. C. F. B., 316
- Cup Match, exclusivity of vendors at
  - Blakeney, Hon. G. A., 770–771
  - Tucker, Mr. D. D. M., 768–770
- Debt in Bermuda
  - Gibbons, Dr. the Hon. E. G., 523–526
- Economic Recession
  - Cox, Hon. P. A., 533–534
- Final Speech by Honourable Premier
  - Brown, Dr. the Hon. E. F., 1058–1059
- FutureCare
  - Furbert, Hon. W. L., 166
  - Gordon-Pamplin, Mrs. P. J., 171–173
  - Jackson, Mrs. L. A., 165–166
  - Richards, Mr. E. T., 168
- Gaming, Green Paper on
  - Brown, Dr. the Hon. E. W., 119–120
- GlobalHue Contract
  - De Silva, Hon. Z. J. S., 641–642
  - Lister, Hon. W. M., 643–644
  - Richards, Mr. E. T., 635–636
  - Swan, Hon. H. E., 642–643
- Hospital, administrative offices
  - Jackson, Mrs. L. A., 164
- Hospital, food carts and new salad bar
  - Jackson, Mrs. L. A., 164
- Hospital, oncology department renovations
  - Jackson, Mrs. L. A., 164
- Hospital, salaries at
  - Jackson, Mrs. L. A., 165
- Hospitalist Plan
  - Jackson, Mrs. L. A., 164
- Hotel Industry Energy Costs
  - Gibbons, Dr. the Hon. E. G., 304
- MAWI, renovations at Fairview Court
  - Jackson, Mrs. L. A., 163–164
- Morgan's Point Property
  - Tucker, Mr. D. D. M., 1058
- National Stadium, swimming pool at
  - Blakeney, Hon. G. A., 320–322
  - Swan, Mr. C. F. B., 316–318
- Parliamentary Procedure-Joint Select Committees
  - Barritt, Mr. J., 308
- "Political Surgery",
  - Cox, Hon. P. A., 322-323

Radio Cabs, closing down of, 281
Response to Ministerial Statement by Premier on
Proceedings of Public Accounts Committee
Richards, Mr. E. T., 635–636
Review of Municipalities, Parliamentary Questions on
Barritt, Mr. J., 308–310
Senior's Tea Party and Back-to-school gathering
De Silva, Hon. Z. J. S., 526–528
Taxi Cab Industry-GPS
Barritt, Mr. J., 310–311
Brown, Dr. the Hon. E. F., 300
Cox, Hon. P. A., 323–324
Gibbons, Dr. the Hon. E. G., 303–304
Tourism
Brown, Dr. the Hon. E. F., 299–300
Gibbons, Dr. the Hon. E. G., 303
Swan, Hon. H. E., 296–298
Swan, Mr. C. F. B., 314–316
Trip to Brussels
Cox, Hon. P. A., 324
Victor Scott School Summer Programme
Barritt, Mr. J., 639–641
Gordon-Pamplin, Mrs. P. J., 636–638
James, Hon. E. G., 638–639
West End Development Corporation and its treatment of Bermuda Cement Company
Burgess, Hon. D. V., Sr., 522-523
Richards, Mr. E. T., 521–522
WestJet
Brown, Dr. the Hon. E. F., 300–301

Announcements by Speaker or Member Presiding:
Appointment of House Members to Joint Select Committee on Gangs and Gun Violence, 911
Constituency Boundaries Commission, Report of, 180
Court of Appeal Amendment Act 2009, 839
CPA 35th Regional Conference in Trinidad, Deputy Speaker and Clerk attending, 911
Letters
From Elaine and Albert Fox, Jr., 536
From Mr. Kay Steele, 180
Overseas Territories Consultative Meeting, visitors attending, 325–326
Report of Rules and Privileges Committee concerning New Standing Orders, 1–2
Ruling on remarks by Hon. D. V. Burgess (SO 19 (11)(d)), 575
Special Report of Ombudsman in response to Cabinet Office response to Atlantica Unlocked; Ombudsman's Own Motion to systemic investigation into allegations of barriers to access to Bermuda Archive, 405
Visitors attending Overseas Territories Consultative Meeting, 325
Vote of thanks to panel of Speakers, 929

B

Barritt, Mr. John:
9 Beaches Resort Expansion (Question on), 338
Bermuda College and Coco Reef Lease (Question on), 336
Bermuda Hospitals Board Mental Health Strategy (Question on), 409
Bermuda Plan 2008 Planning Statement, objection thereto, 400–401
Bermuda's Aircraft Registry (Question on), 14
Court of Appeals Amendment Act 2009, 620–621, 632–633
Motion to rise and report, 634
Court of Appeals Amendment Act 2010, 746–749
Crime in Bermuda, 307–308
Firearms Amendment Act 2010, 347, 359–362
Gaming, Green Paper on, 44–50
Handheld cell phones, use of while driving (Question on), 407, 408
Maritime Security (Harbour Areas) (Restricted Zones) Order 2010, 554
Media Council (Question on), 287
Mincy Report, 252–255
Mirrors Community Programme 2010 (Question on), 289
Municipalities Reform Act 2010, 977–984
Municipalities Reform (Question on), 782
National Service Plan (Question on), 924, 926
Parental Responsibility Act 2010, 710–712
Parliamentary Election Amendment Act 2010, 1040–1042, 1045
Parliamentary Procedure-Joint Select Committees, 308
Public Access to Information Act 2010, 1013–1015
Review of Bermuda Immigration and Protection Amendment Act 2007, 463–466
Review of Municipalities, Parliamentary Questions on, 308–310
Survey of findings with respect to cell phones (Question on), 185
Taxi Cab Industry-GPS, 309–310
Telecommunications Amendment Act 2010, 489–492
Traffic Offences Procedure Act 1974 Specified Penalties Amendment Notice 2010, 587–590
Victor Scott School Summer Programme, 639–641

Bills:
Bail Amendment Act 2010
Introduction, 294
Second Reading
Crockwell, Mr. S. G., 395
Moniz, Hon. T. G., 394–395
Roban, Hon. W. H., 395–396
Scott, Hon. M. J., 393–394, 396
Committee, 396–400
Report, 400
Bermuda Housing Amendment Act 2010
Introduction, 135
Second Reading
Roban, Hon. W. H., 294–295
Swan, Mr. C. F. B., 295
Committee, 295
Report, 296
Third Reading, 296
Bermuda Immigration and Protection Amendment (No. 2) Act 2010
Introduction, 482
Second Reading

De Silva, Hon. Z. J. S., 663–664
Gibbons, Dr. the Hon. E. G., 664–666
Moniz, Hon. T. G., 661–653
Roban, Hon. W. H., 658–661, 666
Committee, 667–672
Report, 673
Third Reading, 767
Bermuda Immigration and Protection Amendment (No. 3) Act 2010
Introduction, 481
Second Reading
Moniz, Hon. T. G., 615–617
Pettingill, Mr. M., 617–618
Roban, Hon. W. H., 614–615, 618
Committee, 618–620
Report, 620
Third Reading, 634
Commission for Unity and Racial Equality (Transfer of Functions) 2010
Introduction, 345
Second Reading
Butterfield, Hon. D. N. I., 511–512, 517
Moniz, Hon. T. G., 515–517
Perinchief, Hon. W. N. M., 513–515
Swan, Mr. C. F. B., 512–513
Committee, 517–520
Report, 520
Third Reading, 520
Companies Amendment (No. 2) Act 2010
Introduction, 481
Second Reading
Cox, Hon. P. A., 677–679, 684–685
De Silva, Hon. Z. J. S., 684
Gibbons, Dr. the Hon. E.G., 680–681
Moniz, Hon. T. G., 682–683
Roban, Hon. W. H., 683–684
Scott, Hon. M. J., 681–682
Committee, 685–687
Report, 688
Third Reading, 768
Court of Appeals Amendment Act 2009
Second Reading
Barritt, Mr. J., 620–621, 632–633
Butterfield, Hon. D. N. I., 630–631
Crockwell, Mr. S. G., 625–627
Gordon-Pamplin, Mrs. P. J., 628–630
Hunt, Mr. D. O., 631–632
Moniz, Hon. T. G., 621
Pettingill, Mr. M., 621–625
Motion to Rise and Report Progress, 634
Ruling by the Speaker, 839
Withdrawn, 839
Court of Appeals Amendment Act 2010
Introduction, 549
Second Reading
Barritt, Mr. J., 746–749
Cox, Hon. P. A., 752
Crockwell, Mr. S. G., 744–745
Gordon-Pamplin, Mrs. P. J., 750–752
Lister, Hon. T. E., 741–743
Moniz, Hon. T. G., 743–744
Perinchief, Hon. W. N. M., 749
Roban, Hon. W. H., 745–746
Scott, Hon. M. J., 752–753
Committee, 753–755
Report, 755
Third Reading, 767
Credit Unions Act 2010
Introduction, 481
Second Reading
Cox, Hon. P. A., 591–594, 602–603
Gordon-Pamplin, Mrs. P. J., 597–599
Richards, Mr. E. T., 594–597
Simons, Mr. N. H. C., 599–602
Committee, 603–614
Report, 614
Third Reading, 603–614
Firearms Amendment Act 2010
Introduction, 294
Second Reading
Barritt, Mr. J., 347, 359–362
Brown, Dr. the Hon. E. F., 348
Butler, Hon. D. D., 372–373
Cox, Hon. P. A., 377
Crockwell, Mr. S. G., 368–370
DeVent, Hon. A. E., 374–375
Furbert, Hon. W. L., 373–374
Gordon-Pamplin, Mrs. P. J., 375–377
Lister, Hon. T. E., 347
Moniz, Hon. T. G., 350–352
Perinchief, Hon. W. N. M., 370–372
Pettingill, Mr. M., 352–359
Richards, Mr. E. T., 366–368
Roban, Hon. W. H., 362–366
Scott, Hon. M. J., 347, 348–350, 377–379
Committee, 379–393
Report, 393
Message from Senate, 535–536
Government Loans Amendment (No. 2) Act 2010
Introduction, 795
Second Reading
Cox, Hon. P. A., 901–902
Richards, Mr. E. T., 902–903
Roban, Hon. W. H., 903
Committee, 903
Report, 904
Third Reading, 905
Insurance Companies (Special Fees) Act 2010
Introduction, 583
Second Reading
Cox, Hon. P. A., 868–870, 873
Crockwell, Mr. S. G., 872–873
Gordon-Pamplin, Mrs. P. J., 871–872
Richards, Mr. E. T., 870–871
Committee, 873–875
Report, 875
Third Reading, 904
Justice Protection Act 2010
Introduction, 583
Second Reading

Crockwell, Mr. S. G., 828–831
Moniz, Hon. T. G., 827–828
Roban, Hon. W. H., 831–832
Scott, Hon. M. J., 826–827, 832
Committee, 832–835
Report, 836
Third Reading, 837
Labour Relations Amendment Act 2010
Introduction, 520
Second Reading
Foggo, Ms. L. F., 558
Gordon-Pamplin, Mrs. P. J., 557–558
Roban, Hon. W. H., 556–557, 558
Swan, Mr. C. F. B., 557
Committee, 558–559
Report, 559
Third Reading, 520
Liquor Licence Amendment Act 2010
Second Reading
De Silva, Hon. Z. J. S.., 147–148, 154
DeVent, Hon. A. E., 153
Gibbons, Dr. the Hon. E.G., 149
Moniz, Hon. T. G., 148–149
Perinchief, Hon. W. N. M, 149–151
Swan, Hon. H. E., 151–153
Committee, 154–159
Report, 159
Third Reading, 160
Marine Board Amendment Act 2010
Introduction, 346
Second Reading
De Silva, Hon. Z. J. S., 550, 551
Gibbons, Dr. the Hon. E. G., 551
Swan, Hon. H. E., 550–551
Committee, 551–552
Report, 551–552
Third Reading, 571
Media Council Act 2010
Introduction, 23
Motor Car Amendment (No. 2) Act 2010
Introduction, 836
Second Reading
Brown, Dr. the Hon. E. F., 1032–1033, 1035
Hunt, Mr. D. O., 1034
Swan, Hon. H. E., 1033–1034
Swan, Mr. C. F.B., 1035
Tucker, Mr. D. D. M., 1034–1035
Committee, 1036–1038
Report, 1038
Third Reading, 1057
Municipalities Reform Act 2010
Introduction, 836
Second Reading
Barritt, Mr. J., 977–984
Brown, Dr. the Hon. E. F., 942–946
Cox, Hon. P. A., 971–974
Crockwell, Mr. S. G., 974–976
De Silva, Hon. Z. J. S., 930–933, 997–998
Division (Motion to Rise and Report), 942
Furbert, Hon. W. L., 955–960
Gibbons, Dr. the Hon. E. G., 960–965
Gordon-Pamplin, Mrs. P. J., 950–955
Jackson, Mrs. L. A., 988–991
Lister, Hon. T. E., 976–977
Motion to Rise and Report (SO 29(5)), 941–942
Pettingill, Mr. M., 946–950
Richards, Mr. E. T., 968–971
Roban, Hon. W. H., 984–988
Scott, Hon. M. J., 965–968
Swan, Hon. H. E., 933–942
Tucker, Mr. D. D. M., 992–997
Committee, 998–1011
Report, 1011
Third Reading, 1057
Nursing Amendment Act 2010
Introduction, 481
Second Reading
Brown, Dr. the Hon. E. F., 566–567
Crockwell, Mr. S. G., 565
Jackson, Ms. L. A., 561–562
Roban, Hon. W. H., 559–561, 567
Swan, Hon. H. E., 565–566
Tucker, Mr. D. D. M., 565
Committee, 567–570
Report, 570
Third Reading, 571
Parental Responsibility Act 2010
Introduction, 549
Second Reading
Barritt, Mr. J., 710–712
Butler, Hon. D. D., 699–702
Butterfield, Hon. N. D. I., 693–697
Cox, Hon. P. A., 727–728
Crockwell, Hon. S. G., 697–699
DeVent, Hon. A. E., 713–715
Gibbons, Dr. the Hon. E. G., 720–722
Gordon-Pamplin, Mrs. P. J., 722–724
Hunt, Mr. D. O., 705–707
Jackson, Mrs. L. A., 702–705
James, Hon. E. G., 707–708
Moniz, Hon. T. G., 692–693
Perinchief, Hon. W. N. M., 718–720
Scott, Hon. M. J., 688–692, 728–729
Swan, Hon. H. E., 724–727
Swan, Mr. C. F. B., 715–717
Tucker, Mr. D. D. M., 708–710
Committee, 729–740
Report, 741
Third Reading, 767
Parliamentary Election Amendment Act 2010
Introduction, 346
Second Reading
Barritt, Mr. J., 1040–1042, 1045
Gibbons, Dr. the Hon. E. G., 1044–1045
Pettingill, Mr. M., 1042
Swan, Hon. H. E., 1043–1044
Committee, 1045
Report, 1046
Police and Criminal Evidence Amendment Act 2010
Second Reading

Cox, Hon. P. A., 142–143
De Silva, Hon. Z. J. S.:, 143
Moniz, Hon. T. G., 137–138
Perinchief, Hon. W.N.M., 140–142
Pettingill, Mr. M., 138–140
Committee, 143–146
Report, 146
Third Reading, 160
Police and Criminal Evidence (No. 2) Amendment Act 2010
Introduction, 583
Second Reading
Crockwell, Mr. S. G., 821–822
Moniz, Hon. T. G., 819–821
Roban, Hon. W. H., 822
Scott, Hon. M. J., 817–819, 823
Committee, 823–825
Report, 825
Third Reading, 837
Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010
Introduction, 658
Second Reading
Cox, Hon. P. A., 889
Crockwell, Mr. S. G., 888
Gibbons, Dr. the Hon. E. G., 886–888
Roban, Hon. W. H., 888
Scott, Hon. M. J., 883–886, 889
Committee, 890–901
Report, 901
Third Reading, 904
Public Access to Information Act 2010
Introduction, 23
Second Reading
Barritt, Mr. J., 1013–1015
Brown, Dr. the Hon. E. F., 1011–1013, 1016–1017
Crockwell, Mr. S. G., 1015–1016
Roban, Hon. W. H., 1016
Committee, 1017–1025
Report, 1025
Third Reading, 1057
Telecommunications Amendment Act 2010
Introduction, 346
Second Reading
Barritt, Mr. J., 489–492
Butler, Mr. D. D., 488–489
Crockwell, Mr. S. G., 486
DeVent, Hon. A. E., 492
Gibbons, Dr. the Hon. E. G., 484–485
Perinchief, Hon. W. N. M., 487
Pettingill, Mr. M., 487–488
Roban, Hon. W. H., 485–486
Scott, Hon. M. J., 482–483, 492
Committee, 492–510
Report, 511
Traffic Offences Procedure Act 1974 Specified Penalties Amendment Notice 2010
Third Reading, 634
Traffic Offences Procedure Amendment Act 2010
Second Reading
Brown, Dr. the Hon. E. F., 875-876, 879
Gibbons, Dr. the Hon. E. G., 879
Gordon-Pamplin, Mrs. P. J., 878
Pettingill, Mr. M., 877–878
Swan, Hon. H. E., 876–877
Committee, 879–883
Report, 883
Third Reading, 905
West End Development Corporation Amendment Act 2010
Introduction, 582
Second Reading
Burgess, Hon. D. V., Sr., 800–802, 815–816
Gibbons, Dr. the Hon., 809–810
Gordon-Pamplin, Mrs. P. J., 802–805
Lister, Hon. W. M., 805–807
Roban, Hon. W. H., 812–815
Scott, Hon. M. J., 810–811
Swan, Hon. H. E., 811–812
Swan, Mr. C. F. B, 808–809
Committee, 816
Report, 817
Third Reading, 837
Blakeney, Hon. Glenn A.:
Bermuda Plan 2008 Planning Statement, 283
Consideration of Report, 400, 402–403
Bermuda Swimming Team, accomplishments of, 649
Bermuda Track and Field Association, 649
CARIFTA Games Easter Weekend 2010, Bermuda to host, 775–776
Central American and Caribbean (CAC) Games, 913–914
Climate Change, Impact of on Bermuda, 433–436
Cup Match, exclusivity of vendors at, 770–771
Gaming, green paper on, 88–90
Gulf Oil Spill, 329
ICA America's Regional Division 1, 407
Madagascar Exhibit/Bermuda Aquarium, Museum and Zoo, 329–330
National Stadium, swimming pool at, 320–322
Sargasso Sea Initiative, 284–285
Brown, Dr. the Hon. Ewart F.:
Bermuda Hospitals Board Mental Health Strategy (Parliamentary Question), 411
Bermuda's Aircraft Registry, 2–3
Letter from HE the Governor re, 180
Civil Airport (Amendment of Schedule) Order 2010, 575, 796-799, 800
Climate change, impact of on Bermuda, 420–423
Constitution of Bermuda Constituency Boundaries Order 2010, 773
Draft Order for Approval of Recommendations of Constituency Boundaries Commission for Bermuda, 774
Extension of Lease Agreement between Bermuda Land Development Company Ltd and IRC Sandys Ltd at Daniel's Head, 912

Feasibility Study-transfer of certain operations of Government to St. George's and Southside, 3
Final Speech by Honourable Premier, 1058–1059
Firearms Amendment Act 2010, 348
FutureCare, rumours and misinformation about, 774–775
Gaming, green paper on, 24–28, 119–120
India, Premier's update on, 127–128
Initial Bilateral Meeting with Parliamentary Under-Secretary of State, 575
Maritime Security (Harbour Areas)(Restricted Zones) Order 2010, 326
Media Council Act 2010, 23
Media Council, 284
Self-regulating of, 839–840
Mincy Report, 191–196
Motor Car Amendment (No. 2) Act 2010, 1032–1033, 1035
Municipalities Reform Act 2010, 942–946
National Service Plan, 912–913
Nursing Amendment Act 2010, 566–567
Opportunities in the East - Feasibility Study update, 563
Overseas Territories Consultative Meeting, 325
Park Hyatt St. George's Development lease agreements, 911–912
Port (Amendment of Schedule) Order 2010, Consideration of draft order, 796–798, 800
Public Access to Information Act 2010, 3–4, 1011–1013, 1016–1017
Public Accounts Committee Public Meeting 1 July 2010, response to statements made at, 577
Report of Constituency Boundaries Commission, reasons for modifications to, 773
Russia, Premier's visit to, 126–127
Taxi Industry-GPS, 300
Tourism, 299–300
Traffic Offences Procedure Act 1974 Specified Penalties Amendment Notice 2010, 583–584, 587, 590–591
Traffic Offences Procedure Amendment Act 2010, 875–876, 879
Transport Control Department
2008 Annual Report, 2
Improved service at /upgrade to website, 5
Washington DC, visit - June 2010, 562–563
Welcoming of Dr. the Hon. Denzil Douglas, PM of St. Kitts and Nevis, 175
WestJet, 300–301, 564–565

Burgess, Hon. Derrick V., Sr.:
9 Beaches Resort Expansion and Development, 332–333
Bermuda Housing (Vesting of Land) Order 2010, 912, 1038–1039
Bermuda Immigration and Protection Amendment Act 2007, review of, 467
Bermuda's Education System and Public School Students being used as Political Footballs (Question on), 789
Climate change, impact of on Bermuda, 442–443
Current Dry Spell-Further Observations, 183–184
Current Water Situation - Future Plans, 121–123
Magistrate's Court/Hamilton Police Station Construction Project, 10–11
Mincy Report, 259–263
MOU between Government and Bermuda Waterworks Limited, 333–335
Proposal for Extension of Lease Agreement Regarding land at Daniel's Head, Sandys Parish, 1025–1027, 1031–1032
Tynes Bay Waste-to-Energy Facility Refurbishment, 780–781
West End Development Corporation Amendment Act 2010, 800–802
West End Development Corporation and its treatment of Bermuda Cement Company, 522–523

Butler, Hon. Dale D.:
Crime in Bermuda, 318–320
Firearms Amendment Act 2010, 372–373
Gaming, green paper on, 78–80
Mincy Report, 231–236
Parental Responsibility Act 2010, 699–702
Telecommunications Amendment Act 2010, 488–489

Butterfield, Hon. D. Neletha I.:
Bermuda Day Parade, 125–126
Security at, 182–183
Bermuda's Emancipation events, honouring of, 843–844
Children's Reading Festival, 9
Commission for Unity and Racial Equality (Transfer of Functions) 2010, 511–512
Court of Appeals Amendment Act 2009, 630–631
Culture Unwrapped, 577–578
Department of Child and Family Services "Summer Experience 2010," 918–919
Foster Care Month, 9–10
Gaming, green paper on, 91–95
Mincy Report, 271–276
Mirrors Community Programme 2010, 285–286
Mirrors Community Programme Coaching for Success and Visions and Dreams in Action: "Each One Teach One", 779–780
Parental Responsibility Act 2010, 693–697

C

Confirmation of Minutes:
March 12, 15, 17, 19, 22, 2010, 1
May 07, 2010, 121
May 14, 2010, 179
May 21, 2010, 281
May 28, 2010, 326
June 04, 2010, 471
June 11, 2010, 535
June 18, 2010, 575
June 25, 2010, 471
July 02, 2010, 773
July 09, 2010, 839
July 16, 2010, 911

Congratulatory and/or Obituary Speeches: 131–135, 186–191, 291–293, 341–345, 413–419,

474–481, 541–549, 578–582, 654–658, 790–795, 849–852, 926–929
Cox, Hon. Paula A.:
"Political Surgery," 322–323
Bermuda College-Coco Reef Lease, 173–174
Bermuda Contributory Pension Fund Actuarial Report as at 1 August 2008, 536–538
Bermuda Monetary Authority Report and Accounts 2009, 645
Climate change, impact of on Bermuda, 454–455
Code of Conduct for Members of Parliament, Motion to adopt, 765–766
Companies Amendment (No. 2) Act 2010, 677–679, 684–685
Court of Appeals Amendment Act 2010, 752
Credit Unions Act 2010, 591–594, 602–603
Crime in Bermuda, 324, 533–534
Economic Recession, 533–534
Firearms Amendment Act 2010, 377
Gaming, green paper on, 50–52
Government Loans Amendment (No. 2) Act 2010, 901–902
Insurance Companies (Special Fees) Act 2010, 868–870
Mincy Report, 226–228
Municipalities Reform Act 2010, 971–974
National Pension Scheme (Financial Hardship) Regulations 2010, 575–576, 853–856, 867–686
Parental Responsibility Act 2010, 727–728
Parliamentary Standing Committee on Public Accounts for 2007 and 2008, response thereto by Minister of Finance, 652–654
Police and Criminal Evidence Amendment Act 2010, 142–143
Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010, 889
Report of Parliamentary Standing Committee on Public Accounts for 2007 and 2008, Together with Response by Minister of Finance on 9 July 2010 be adopted, 1054–1056
Taxi Industry-GPS, 323–324
Traffic Offences Procedure Act 1974-Specified Penalties Amendment Notice, 471
Trip to Brussels, 324
Crockwell, Mr. Shawn G.:
Bail Amendment Act 2010, 395
Bermuda College and Coco Reef Lease (Question on), 337
Code of Conduct for Members of Parliament, motion to adopt, 766
Court of Appeals Amendment Act 2009, 625–627
Court of Appeals Amendment Act 2010, 744–745
Firearms Amendment Act 2010, 368–370
Gaming, green paper on, 95–98
Insurance Companies (Special Fees) Act 2010, 872–873
Justice Protection Act 2010, 828–831
Mincy Report, 211–214
Municipalities Reform Act 2010, 974–976
National Pension Scheme Financial Hardship Regulations 2010, 864
Nursing Amendment Act 2010, 565
Parental Responsibility Act 2010, 697–699
Parliamentary Select Committee to inquire into the rise of violent crime and gun violence in Bermuda, motion to appoint, 759
Police and Criminal Evidence (No. 2) Amendment Act 2010, 821–822
Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010, 888
Public Access to Information Act 2010, 1015–1016
Telecommunications Amendment Act 2010, 486
Welcoming of Dr. the Hon. Denzil Douglas, PM of St. Kitts and Nevis, 175
CURE: *See* Bills: Commission for Unity and Racial Equality (Transfer of Functions) 2010

D

De Silva, Hon. Zane J. S.:
Atlantic Resort Hotel Development, 573–574
Bermuda Immigration and Protection Amendment (No. 2) Act 2010, 663–664
Companies Amendment (No. 2) Act 2010, 684
Gaming, green paper on, 62–64
GlobalHue Contract, 641–642
Liquor Licence Amendment Act 2010, 147–148, 154
Marine Board Amendment Act 2010, 550, 551
Maritime Security (Harbour Areas) (Restricted Zones) Order 2010, 552–553, 555–556
Mincy Report, 196–198
Municipalities Reform Act 2010, 778–779, 930–933, 997–998
Police and Criminal Evidence Amendment Act 2010, 136, 143
Report of Parliamentary Standing Committee on Public Accounts for 2007 and 2008, Together with Response by Minister of Finance on 9 July 2010 be adopted, 1052
Senior's Tea Party and Back-to-school gathering, 526–528
DeVent, Hon. Ashfield E.:
Firearms Amendment Act 2010, 374–375
Gaming, green paper on, 107–110
Liquor Licence Amendment Act 2010, 153–154
Mincy Report, 267–271
Parental Responsibility Act 2010, 713–715
Telecommunications Amendment Act 2010, 492
Divisions:
Bermuda Plan 2008 Planning Statement, Zoning Maps, Tribunal Report, objection to consideration thereof, 401
Court of Appeal Amendment Act 2010, committee stage amendments, 755
Review of Bermuda Immigration and Protection Amendment Act 2007, 469
Douglas, Dr. the Hon. Denzil, PM St. Kitts and Nevis:
Address to Parliament, 176–179

Welcoming of, 175–176, 179

Draft Orders, consideration of:
Civil Airport (Amendment of Schedule) Order 2010, 575, 796–800
Bermuda Housing (Vesting of Land) Order 2010, 1038–1039
Maritime Security (Harbour Areas) (Restricted Zones) Order 2010, 552–556
Traffic Offences Procedure Act 1974 Specified Penalties Amendment Notice 2010, 583–591
Draft Regulations, consideration of:
Bermuda Immigration and Protection (Land-Holding Charges) Amendment Regulations 2010, 674–676
Bermuda Immigration and Protection (Rental and Use) Amendment Regulations 2010, 676
Bermuda Immigration and Protection (Tourist Accommodation and Hotel Residences) Regulations 2010, 673–674
National Pension Scheme (Financial Hardship) Regulations 2010, 853–868

F

Foggo, Ms. Lovitta F.:
Climate change, impact of on Bermuda, 452–454
Gaming, green paper on, 104–105
Horseshoe Re Limited, Petition, 327
Labour Relations Amendment Act 2010, 558
Furbert, Hon. Wayne L.:
Bermuda's Aircraft Registry, 167–168
Firearms Amendment Act 2010, 373–374
FutureCare, 166
Gaming, green paper on, 39–44

G

Gibbons, Dr. the Hon. E. Grant:
9 Beaches Resort Expansion (Question on), 338
Auditor General blocked from getting access to financial systems of Ministry of Finance, 909–910
Bermuda College and Coco Reef Lease, 160-163
Question on, 335
Bermuda Contributory Pension Fund, 540
Bermuda Hospitality Institute, 304–305
Bermuda Hospitals Board Mental Health Strategy, 410
Bermuda Immigration and Protection (Tourist Accommodation and Hotel Residences) Regulations 2010, 673–674, 675
Bermuda Immigration and Protection Amendment (No. 2) Act 2010, 664–666
Bermuda's Aircraft Registry, 15
Bermuda's Education System and Public School Students used as political footballs, 790
Bond Issue, 909
Civil Airport (Amendment of Schedule) Order 2010, 798-799
Climate change, impact of on Bermuda, 436–439
Companies Amendment (No. 2) Act 2010, 680–681
Crime in Bermuda, 303
Current Dry Spell, 184
Debt in Bermuda, 523–526
FutureCare, Rumours and misinformation about, 786
Gaming, green paper on, 75–78
Health Services for Seniors (Questions on), 847, 848-849
Hotel Industry Energy Costs, 304
Liquor Licence Amendment Act 2010, 149
Marine Board Amendment Act 2010, 551
Media Council, 290
Mincy Report, 198–207
Ministry of Health Achievements in Fiscal Year 2009/10, (Questions on), 923-924
Municipalities Reform (Questions on), 784
Municipalities Reform Act 2010, 960–965
National Pension Scheme (Financial Hardship) Regulations 2010, 858–861
National Service Plan (Question on), 924
Parental Responsibility Act 2010, 720–722
Parliamentary Election Amendment Act 2010, 1044–1045
Port (Amendment of Schedule) Order 2010, Consideration of draft order, 798–799
Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010, 886–888
Proposal for extension of lease agreement regarding land at Daniel's Head, Sandys Parish, 1031
Public Access to Information Act, 16
Report of Parliamentary Standing Committee on Public Accounts for 2007 and 2008, together with response by Minister of Finance on 9 July 2010, 1052–1054
Taxi industry-GPS, 303–304
Telecommunications Amendment Act 2010, 484–485
Tourism, 303
Traffic Offences Procedure Amendment Act 2010, 879
Russia, Premier’s visit to, 130
West End Development Corporation Amendment Act 2010, 809–810
Gordon-Pamplin, Mrs. Patricia J.:
9 Beaches Resort Expansion, 337
Bermuda College-Coco Reef Lease, 173
Bermuda Housing (Vesting of Land) Order 2010, 1039
Bermuda's Aircraft Registry, 170–171
Court of Appeals Amendment Act 2009, 628–630
Court of Appeals Amendment Act 2010, 750–752
Credit Unions Act 2010, 597–599
Current Dry Spell (Question on), 184
Current Water Situation-Future Plans (Question on), 129
Firearms Amendment Act 2010, 375–377
FutureCare, 171–172
Gaming, green paper on, 80–85
Insurance Companies (Special Fees) Act 2010, 871–872

Labour Relations Amendment Act 2010, 557–558
Maritime Security (Harbour Areas) Restricted Zones) Order 2010, 554–555
Mincy Report, 239–244
MOU between Government and Bermuda Waterworks Limited (Questions on), 337
Municipalities Reform Act 2010, 950–955
National Pension Scheme Financial Hardship Regulations 2010, 864–865
Parental Responsibility Act 2010, 722–724
Parliamentary Standing Committee on Public Accounts for 2007 and 2008, report of, 649–652
Proposal for Extension of Lease Agreement Regarding land at Daniel's Head, Sandys Parish, 1027–1030
Public Access to Information Act (Question on), 16
Report of Parliamentary Standing Committee on Public Accounts for 2007 and 2008, Together with Response by Minister of Finance on 9 July 2010 be adopted, 1050–1052
Victor Scott School, summer programme, 636–638
Traffic Offences Procedure Amendment Act 2010, 878
Tynes Bay Waste-to-Energy Facility (Question on), 787, 788
West End Development Corporation Amendment Act 2010, 802–805

H

Horton, Hon. K. H. Randolph:
Crime in Bermuda, 305–307
Gaming, green paper on, 73–75
Mincy Report, 244–247
Parliamentary Select Committee to inquire into the rise of violent crime and gun violence in Bermuda, motion to appoint, 756–758
Traffic Offences Procedure Act 1974 Specified Penalties Amendment Notice 2010, 587
Hunt, Mr. Donte O.:
Court of Appeals Amendment Act 2009, 631–632
Department of Child and Family Services "Summer Experience 2010," (Question on), 925
Gaming, green paper on, 52–55
Motor Car Amendment (No. 2) Act 2010, 1034
Parental Responsibility Act 2010, 705–707

J

Jackson, Mrs. Louise A.:
Doctor's Lounge at KEMH (Question on) Answered in Writing, 341
FutureCare, 165–166
Question on, 13
Rumours and misinformation about (Question on), 785
Gaming, green paper on, 86–88
Health Services for seniors (Question on), 845
HIV Awareness (Question on), 338, 339
Hospital
Administrative Offices, 164
Food carts and new salad bar, 164
Oncology Department renovations, 164
Salaries, 164
Hospitalist Plan, 164
Maternal Health Care (Question on), 289
MAWI - Renovation at (Question on), 409
MAWI, Fairview Court, renovations at, 163–164
Question on (Answered in Writing), 131
Mincy Report, 222–226
Ministry of Health Achievements in Fiscal Year 2009/10 (Question on), 921, 923
Municipalities Reform Act 2010, 988–991
National Pension Scheme (Financial Hardship) Regulations 2010, 861–864
Nursing Amendment Act 2010, 561–562
Parental Responsibility Act 2010, 702–705
Succession Plan at KEMH (Question on), 412
James, Hon. Elvin G.:
Aspiring Leadership Course, 327–328
Bermuda College-Coco Reef Lease, 328–329
Bermuda's Education System and Public School students being used as political footballs, 776–777
Gaming, green paper on, 64–66
Mincy Report, 207–211
Parental Responsibility Act 2010, 707–708
Victor Scott School summer programme, 638–639
VMWare donation to public schools, 283–284

L

Lister, Hon. Terry E.:
Court of Appeals Amendment Act 2010, 741–743
Crime in Bermuda, 301–303, 521–533
Firearms Amendment Act 2010, 347
Mincy Report, 217–222
Municipalities Reform Act 2010, 976–977
National Pension Scheme (Financial Hardship) Regulations 2010, 857–858
Proposal for extension of lease agreement regarding land at Daniel's Head, Sandys Parish, 1030
Traffic Offences Procedure Act 1974 Specified Penalties Amendment Notice 2010, 590
Lister, Hon. Walter M.:
Gaming, green paper on, 105–107
GlobalHue Contract, 643–644
Report of Parliamentary Standing Committee on Public Accounts for 2007 and 2008, Together with Response by Minister of Finance on 9 July 2010, 1048–1050
West End Development Corporation Amendment Act 2010, 805–807
Lister, Mr. Dennis P.:
Gaming, green paper on, 111–112

M

Messages from the Senate:
Firearms Amendment Act 2010, Message from Senate relating to, 535–536

Joint Select Committee to Examine Social Causes of Gang and Gun Violence in Bermuda, 773
Minors, Hon. Patrice K.:
Gaming, green paper on, 56–58
Maternal Health Care (Question on), 290
Moniz, Hon. Trevor G.:
Bail Amendment Act 2010, 394–395
Bermuda Immigration and Protection (Tourist Accommodation and Hotel Residences) Regulations 2010, 674, 675
Bermuda Immigration and Protection Amendment (No. 2) Act 2010, 661–653
Bermuda Immigration and Protection Amendment (No. 3) Act 2010, 615–617
Bermuda Immigration and Protection Amendment Act 2007
Notice of, 23–24
Review of, 455–462, 468–469
Code of Conduct for Members of Parliament, 766
Commission for Unity and Racial Equality (Transfer of Functions) 2010, 515–517
Companies Amendment (No. 2) Act 2010, 682–683
Court of Appeals Amendment Act 2009, 621
Court of Appeals Amendment Act 2010, 743–744
Crime in Bermuda, 313–314
Firearms Amendment Act 2010, 350–352
Gaming, green paper on, 117–118
Justice Protection Act 2010, 827–828
Liquor Licence Amendment Act 2010, 148–149
National Pension Scheme (Financial Hardship) Regulations 2010, 865–866
Parental Responsibility Act 2010, 692–693
Parliamentary Select Committee to inquire into the rise of violent crime and gun violence in Bermuda, motion to appoint, 758
Police and Criminal Evidence Amendment Act 2010, 137–138
Police and Criminal Evidence (No. 2) Amendment Act 2010, 819–821
Motions:
Adjournment: (*See* Adjournment, Motions on)
Bermuda Immigration and Protection Amendment Act 2007, review of
Barritt, Mr. John, 463–466
Burgess, D. V., Sr., 467
Division, 469
Moniz, Hon. T. G., 455–462, 468–469
Notice of, 23-24
Pettingill, Mr. M., 466
Roban, Hon. W. H., 462–463
Swan, Hon. H. E., 468
Tucker, Mr. D. D. M., 466–467
Climate Change, Impact of on Bermuda
Blakeney, Hon. G. A., 433–436
Brown, Dr. the Hon. E. F., 420–423
Burgess, Hon. D. V., Sr., 442–443
Cox, Hon. P. A., 454–455
Foggo, Ms. L. F., 452–454
Gibbons, Dr. the Hon. E. G., 436–439
Perinchief, Hon. W. N. M., 439–442
Pettingill, Mr. M., 450–452
Scott, Hon. M. J., 447–450
Simons, Mr. N. H. C., 423–433
Smith, Hon. Dame J., 446–447
Swan, Mr. C. F. B., 443–444
Tucker, Mr. D. D. M., 444–446
Code of Conduct for Members of Parliament motion to adopt
Cox, Hon. P. A., 765-766
Crockwell, Mr. S. G., 766
House rose to report progress, 767
Moniz, Hon. T. G., 766
Notice of, 346
Simons, Mr. N. H. C., 759-765, 766-767
Constituency Boundaries Commission, motion to adopt report of
Notice of, 191
Gaming, green paper on
Barritt, Mr. J., 44–50
Blakeney, Hon. G. A., 88–90
Brown, Dr. the Hon. E. W., 24–28, 119–120
Butler, Hon. D. D., 78–80
Butterfield, Hon. D. N. I., 91–95
Cox, Hon. P. A., 50–52
Crockwell, Mr. S. G., 95–98
De Silva, Hon. Z. J. S., 62–64
DeVent, Hon. A., 107–110
Foggo, Ms. L. F., 104–105
Furbert, Mr. W. L., 39–44
Gibbons, Dr. the Hon. E. G., 75–78
Gordon-Pamplin, Mrs. P. J., 80–85
Horton, Hon. K. H., 73–75
Hunt, Mr. D. O., 52–55
Jackson, Mrs. L. A., 86–88
James, Hon. E. G., 64–66
Lister, Hon. W. M., 105–107
Lister, Mr. D. P., 111–112
Minors, Hon. P. K., 56–58
Moniz, Hon. T. G., 117–118
Pettingill, Mr. M., 34–38
Richards, Mr. E. T., 58–62
Roban, Hon. W. H., 70–72
Scott, Hon. M. J., 98–99
Scott, Hon. W. A., 66–70
Simons, Mr. N. H.C., 99–104
Smith, Hon. Dame J., 85–86
Swan, Hon. H. E., 28–33
Swan, Mr. C. F. B., 90–91
Tucker, Mr. D. D. M., 112–117
Weeks, Mr. Michael, 110–111
Mincy Report
Barritt, Mr. J., 252–255
Brown, Dr. the Hon. E. F., 191–196
Burgess, Hon. D. V., Sr., 259–263
Butler, Hon. D. D., 231–236
Butterfield, Hon. D. N. I., 271–276
Cox, Hon. P. A., 226–228
Crockwell, Mr. S. G., 211–214
De Silva, Hon. Z. J. S., 196–198
DeVent, Hon. A. E., 267–271
Gibbons, Dr. the Hon. E. G., 198–207
Gordon-Pamplin, Mrs. P. J., 239–244

Horton, Hon. K. H. R., 244–247
Jackson, Mrs. L. A., 222–226
James, Hon. E. G., 207–211
Lister, Hon. T. E., 217–222
Perinchief, Hon. W. N. M., 249–252
Pettingill, Mr. M., 247–249
Richards, Mr. E. T., 214–217
Scott, Hon. M. J., 236–239
Simons, Mr. N. H. C., 255–259
Smith, Hon. Dame J., 279–280
Swan, Hon. H. E., 277–279
Swan, Mr. C.F.B., 228–231
Tucker, Mr. D. D. M., 263–267
Weeks, Mr. M., 276–277
Parliamentary Select Committee to inquire into the rise of violent crime and gun violence in Bermuda, motion to appoint
Crockwell, Mr. S. G., 759
Horton, Hon. K. H. R., 756–758, 759
Moniz, Hon. T. G., 758
Parliamentary Standing Committee on Public Accounts for 2007 and 2008, together with Response by Minister of Finance on 9 July 2010, motion to adopt report of
Cox, Hon. P. A., 1054–1056
De Silva, Hon. Z. J. S., 1052
Gibbons, Dr. the Hon. E. G., 1052–1054
Gordon-Pamplin, Mrs. P. J., 1050–1052
Lister, Hon. W. M., 1048–1050
Richards, Mr. E. T, 1046–1048, 1056–1057
Proposal for extension of lease agreement regarding land at Daniel's Head, Sandys Parish
Burgess, Hon. D. V., Sr., 1025–1027, 1031–1032
Gibbons, Dr. the Hon. H. E., 1031
Gordon-Pamplin, Mrs. P. J., 1027–1030
Lister, Hon. W. M., 1030
Scott, Hon. M. J., 1030
Response of Minister of Finance to Parliamentary Standing Committee on Public Accounts for 2007 and 2008, motion to take note of
Notice, 796
Richards, Mr. E. T., 796

P

PACE: *See* Bills: Police and Criminal Evidence Amendment Act 2010
Papers and Other Communications to the House:
Bermuda Contributory Pension Fund Actuarial Review as of 1 August 2008, 536
Bermuda Hospitals Board 2008 Annual Report, 283
Bermuda Housing (Vesting of Land) Order 2010, 912
Bermuda Immigration and Protection (Land-holding Charges) Amendment Regulations 2010, 472
Bermuda Immigration and Protection (Rental and Use) Amendment Regulations 2010, 471
Bermuda Immigration and Protection (Tourist Accommodation and Hotel Residences) Regulations 2010, 471
Bermuda Monetary Authority Report and Accounts 2009, 645
Bermuda Plan 2008 Planning Statement, 283
Civil Airport (Amendment of Schedule) Order 2010, 575
Constitution of Bermuda Constituency Boundaries Order 2010, 773
Extension of Lease Agreement between Bermuda Land Development Company Ltd and IRC Sandys Ltd at Daniel's Head, 912
Financial Intelligence Agency Annual Report for 2008-2009, 645
Letter from HE the Governor re: the way the Russian Authorities oversee Bermuda Aircraft Registry, 180
Maritime Security (Harbour Areas)(Restricted Zones) Order 2010, 326
National Pension Scheme (Financial Hardship) Regulations 2010, 575–576
Park Hyatt St. George's Development lease agreements, 911–912
Parliamentary Standing Committee on Public Accounts for 2007 and 2008, response thereto by Minister of Finance, 652–654
Statement of Reasons for Modifications to Report of Constituency Boundaries Commission, 773
Traffic Offences Procedure Act 1974 Specified Penalties Amendment Notice 2010, 471
Transport Control Department 2008 Annual Report, 2
PATI: *See* Bills: Public Access to Information Act 2010; Statements by Ministers and/or Junior Ministers
Perinchief, Hon. Wayne N. M.:
Climate change, impact of on Bermuda, 439–442
Commission for Unity and Racial Equality (Transfer of Functions) 2010, 513–515
Court of Appeals Amendment Act 2010, 749
Crime in Bermuda, 311–313
Firearms Amendment Act 2010, 370–372
Liquor Licence Amendment Act 2010, 149–151
Mincy Report, 249–252
Parental Responsibility Act 2010, 718–720
Police and Criminal Evidence Amendment Act 2010, 140–142
Telecommunications Amendment Act 2010, 487
Petitions:
Horseshoe Re Limited, 327
Pettingill, Mr. Mark:
Bermuda Immigration and Protection Amendment (No. 3) Act 2010, 617–618
Climate change, impact of on Bermuda, 450–452
Court of Appeals Amendment Act 2009, 621–625
Firearms Amendment Act 2010, 352–353
Gaming, green paper on, 34–38
Mincy Report, 247–249
Municipalities Reform Act 2010, 946–950
Parliamentary Election Amendment Act 2010, 1042
Police and Criminal Evidence Amendment Act 2010, 138–140

Review of Bermuda Immigration and Protection (A) Act 2007, 466
Telecommunications Amendment Act 2010, 487–488
Traffic Offences Procedure Act 1974 Specified Penalties Amendment Notice 2010, 585–587
Traffic Offences Procedure Amendment Act 2010, 877–878

Q

Question Period:

9 Beaches Resort Expansion
Barritt, Mr. J., 338
Gibbons, Dr. the Hon. E. G., 338
Gordon-Pamplin, Mrs. P. J., 337
Bermuda College and Coco Reef Lease
Barritt, Mr. J., 336
Crockwell, Mr. S. G., 337
Gibbons, Dr. the Hon. E. G., 335
Bermuda Contributory Pension Fund
Gibbons, Dr. the Hon. E. G., 540
Bermuda Hospitals Board Mental Health Strategy
Barritt, Mr. J., 409
Brown, Dr. the Hon. E. F., 411
Gibbons, Dr. the Hon. E. G., 410
Jackson, Mrs. L. A., 409
Bermuda's Aircraft Registry
Barritt, Mr. J., 14
Gibbons, Dr. the Hon. E. G., 15
Bermuda's Education System and public school students being used as political footballs
Burgess, Hon. D. V., Sr., 789
Gibbons, Dr. the Hon., 790
Culture Unwrapped
Swan, Mr. C. F. B., 578
Current Dry Spell
Gibbons, Dr. the Hon. E. G., 184
Gordon-Pamplin, Mrs. P.J., 184
Simons, Mr. N. H. C., 186
Swan, Mr. H. E., 185
Current Water Situation-Future Plans
Gordon-Pamplin, Mrs. P. J., 129
Swan, Hon. H. E., 129
Swan, Mr. C. F. B., 128
Department of Child and Family Services "Summer Experience 2010,"
Hunt, Mr. D. O., 925
Swan, Mr. C. F. B., 926
Doctor's Lounge at KEMH
Jackson, Mrs. L. A. (Answered in Writing), 341
Emancipation Programmes
Swan, Mr. C. F.B., 849
FutureCare
Jackson, Mrs. L. A., 13
Rumours and misinformation about
Gibbons, Dr. the Hon., 786
Jackson, Mrs. L. A., 785
Gulf Oil Spill
Simons, Mr. N. H. C., 340
Handheld cell phones, use of while driving
Barritt, Mr. J., 407, 408
Health Services for Seniors
Gibbons, Dr. the Hon., 847, 848
Jackson, Mrs. L. A., 845
HIV Awareness Month
Jackson, Mrs. L. A., 338, 339
ICA America's Regional Division 1
Swan, Mr. C. F.B., 411
Initial Bilateral Meeting with Parliamentary Under-Secretary of State
Swan, Mr. H. E., 578
Maternal Health care
Jackson, Mrs. L. A., 289
Minors, Hon. P. K., 290
MAWI, Renovation at
Jackson, Mrs. L. A., 409
Jackson, Mrs. L. A., (Answered in Writing), 131
Media Council
Barritt, Mr. J., 287
Gibbons, Dr. the Hon. E. G., 290
Ministry of Health Achievements in Fiscal Year 2009/10,
Jackson, Mrs. L. A. 921- 923
Mirrors Community Programme 2010
Barritt, Mr. J., 288, 289
MOU between Government and Bermuda Waterworks Limited
Gordon-Pamplin, Mrs. P. J., 337
Municipalities Reform
Barritt, Mr. J., 782
Gibbons, Dr. the Hon. E. G., 784
National Service Plan
Barritt, Mr. J. 924, 926
Public Access to Information Act
Gibbons, Dr. the Hon. E. G., 16
Gordon-Pamplin, Mrs. P. J., 16
Russia, visit to by Premier
Gibbons, Dr. the Hon. E. G., 130
Sargasso Sea Initiative
Swan, Mr. C. F. B., 288
Succession Plan at KEMH
Jackson, Mrs. L. A., 412
Survey of findings with respect to cell phones
Barritt, Mr. J., 185
Tynes Bay Waste-to-Energy Facility
Gordon-Pamplin, Mrs. P. J., 788

R

Reports:

Bermuda Plan 2008, consideration of
Planning Statement, 400, 402
Tribunal Report, 400, 402
Zoning Maps, 400, 402
Hansard
Official Hansard Report Bermuda House of Assembly (May 7, 2010), 782
Pilot Project. introduction SLIQ Media Corporation reps, 12–13
New Standing Orders, Report of Rules and Privileges Committee, 1–2

Parliamentary Standing Committee on Public Accounts for 2007 and 2008
Response by Minister of Finance thereto, 652–654
Parliamentary Standing Committee on the Office of the Auditor General July 2010, 919–921
Richards, Mr. Everard T. (Bob):
Bermuda's Aircraft Registry, 168–170
Bond Issue, 906–907
Credit Unions Act 2010, 594–597
Firearms Amendment Act 2010, 366–368
FutureCare, 168
Gaming, green paper on, 58–62
GlobalHue Contract, 635–636
Government Loans Amendment (No. 2) Act 2010, 902–903
Insurance Companies (Special Fees) Act 2010, 870–871
Mincy Report, 214–217
Motion to take note of response of Minister of Finance to Parliamentary Standing Committee on Public Accounts for 2007 and 2008, 796
Municipalities Reform Act 2010, 968–971
National Pension Scheme (Financial Hardship) Regulations 2010, 856–857
Parliamentary Standing Committee on Public Accounts for 2007 and 2008, Notice of, Motion to take note of response thereto by Minister of Finance, 796
Report of Parliamentary Standing Committee on Public Accounts for 2007 and 2008, Together with Response by Minister of Finance on 9 July 2010 be adopted, 1046–1048, 1056–1057
Response to Ministerial Statement by Premier on Proceedings of Public Accounts Committee, 635–636
West End Development Corporation and its treatment of Bermuda Cement Company, 521–522
Roban, Hon. Walter H.:
Bail Amendment Act 2010, 395–396
Bermuda Hospitals Board
2008 Annual Report, 283
Mental Health Strategy for Bermuda, 405–407
Bermuda Housing Amendment Act 2010, 294–295
Bermuda Immigration and Protection
(Land-Holding Charges) Amendment Regulations 2010, 472, 674–676
(Rental and Use) Amendment Regulations 2010, 471, 676
(Tourist Accommodation and Hotel Residences) Regulations 2010, 471–472, 673, 674
Bermuda Immigration and Protection Amendment Act 2007, review of, 462–463
Bermuda Immigration and Protection Amendment (No. 2) Act 2010, 658–661, 666
Bermuda Immigration and Protection Amendment (No. 3) Act 2010, 614–615, 618
Bermuda Immigration and Protection Amendment Act 2007, review of, 462–463
Bermuda Nursing Programme, 538–539
Companies Amendment (No. 2) Act 2010, 683–684
Court of Appeals Amendment Act 2010, 745–746
Firearms Amendment Act 2010, 362–366
FutureCare, 6–7
Gaming, green paper on, 70–72
Government Loans Amendment (No. 2) Act 2010, 903
Health Services for seniors, 840–842
HIV Awareness Month June 2010, 331–332
Justice Protection Act 2010, 831–832
Labour Relations Amendment Act 2010, 556–557, 558
Maternal Health Care in Bermuda, 286–287
Mental Health Strategy for Bermuda, 472–473
Ministry of Health Achievements Fiscal Year 2009/10, 914–918
Municipalities Reform Act 2010, 984–988
National Pension Scheme (Financial Hardship) Regulations 2010, 866–867
Nursing Amendment Act 2010, 559–561, 567
Optometrists and Opticians Regulations 2010, 777–778
Police and Criminal Evidence (No. 2) Amendment Act 2010, 822
Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010, 888
Public Access to Information Act 2010, 1016
Status of National Office for Seniors and Physically Challenged, 123–125
Telecommunications Amendment Act 2010, 485–486
Vector Control in Bermuda, 645–647
West End Development Corporation Amendment Act 2010, 812–815

S

Scott, Hon. Michael J.:
Bail Amendment Act 2010, 393–394
Bermuda Satellite Insurance Forum, 842–843
Climate change, impact of on Bermuda, 447–450
Companies Amendment (No. 2) Act 2010, 681–682
Court of Appeals Amendment Act 2010, 752–753
Cybertips Initiative, 330–331
Department of E-Commerce-State of ICT in Bermuda, 180–182
Department of Energy Suggestions for Energy Conservation this Summer, 919
EIU Rankings, 647–648
Financial Intelligence Agency Annual Report for 2008-2009, 645
Firearms Amendment Act 2010, 347, 348–350, 377–379
Gaming, green paper on, 98–99
Justice Protection Act 2010, 826–827, 832
Mincy Report, 236–239

Municipalities Reform Act 2010, 965–968
Parental Responsibility Act 2010, 688–692, 728–729
Police and Criminal Evidence (No. 2) Amendment Act 2010, 817–819
Proceeds of Crime Regulations (Supervision and Enforcement) Amendment Act 2010, 883–886, 889
Proposal for Extension of Lease Agreement Regarding land at Daniel's Head, Sandys Parish, 1030
Tech-Savy Seniors, 539–540
TechWeek Initiative, 7–9
Telecommunications Amendment Act 2010, 482–483, 492
West End Development Corporation Amendment Act 2010, 810–811
Scott, Hon. William Alexander:
Gaming, green paper on, 66–70
Simons, Mr. Nelson H. Cole:
Atlantic Resort Hotel Development, 572–573
Climate change, impact of on Bermuda, 423–433
Code of Conduct for Members of Parliament
House rose to report progress, 767
Motion to adopt, 759–764, 766
Credit Unions Act 2010, 599–602
Current Dry Spell (Question on), 186
Gaming, green paper on, 99–104
Gulf Oil Spill (Question on), 340
Mincy Report, 255–259
Smith, Hon. Dame Jennifer:
Achilles Bay Beach, 322
Climate change, impact of on Bermuda, 446–447
Gaming, green paper on, 85–86
Hansard
Official Hansard Report Bermuda House of Assembly (May 7, 2010), 782
Pilot Project. introduction of SLIQ Media Corporation reps, 12–13
Mincy Report, 279–280
Overseas Territories Consultative Meeting, 326
Remarks of thanks to Dr. the Hon. Denzil Douglas, PM of St. Kitts and Nevis, 179
Statements by Ministers and/or Junior Ministers:
9 Beaches Resort Expansion and Develop, 332–333
Aspiring Leadership Course, 327–328
Bermuda College-Coco Reef Lease, 328–329
Bermuda Contributory Pension Fund Actuarial Report as at 1 August 2008, 536–538
Bermuda Day Parade, 125–126
Security, 182–183
Bermuda Hospitals Board Mental Health Strategy for Bermuda, 405–407
Bermuda Nursing Programme, 538–539
Bermuda Satellite Insurance Forum, 842–843
Bermuda Swimming Team, accomplishments of, 649
Bermuda Track and Field Association, 649
Bermuda's Aircraft Registry, 2–3
Bermuda's Education System and Public School Students being used as Political Footballs, 776–777
CARIFTA Games Easter Weekend 2010, Bermuda to host, 775–776
Central American and Caribbean (CAC) Games, 913–914
Children's Reading Festival, 9
Constituency Boundaries Commission for Bermuda, draft order for approval of recommendations of, 774
Culture Unwrapped, 577–578
Current Dry Spell-Further Observations, 183–184
Current Water Situation-Future Plans, 121–123
Cybertips Initiative, 330–331
Department of Child and Family Services "Summer Experience 2010," 918–919
Department of E-Commerce-State of ICT in Bermuda, 180–182
Department of Energy Suggestions for Energy Conservation this Summer, 919
Draft Order for Approval of Recommendations of Constituency Boundaries Commission for Bermuda, 774
EIU Rankings, 647–648
Feasibility Study-Transfer of Certain Operations of Government to St. George's and Southside, 3
Foster Care Month, 9–10
FutureCare, 6–7
FutureCare, rumours and misinformation about, 774–775
Gulf Oil Spill, 329
Health Services for Seniors, 840–842
HIV Awareness Month June 2010, 331–332
Honouring Bermuda's Emancipation Events, 843–844
ICA America's Regional Division 1, 407
India, Premier’s update on, 127–128
Initial Bilateral Meeting with Parliamentary Under-Secretary of State, 575
Madagascar Exhibit/Bermuda Aquarium, Museum and Zoo, 329–330
Magistrate's Court/Hamilton Police Station Construction Project, 10–11
Maternal Health care, 286–287
Media Council, 284
self-regulating of, 839–840
Mental Health Strategy for Bermuda, 472–473
Ministry of Health Achievements Fiscal Year 2009/10, 914–918
Mirrors Community Programme 2010, 285–286
Coaching for Success and Visions and Dreams in Action: "Each One Teach One.", 779–780
MOU between Government and Bermuda Waterworks Limited, 333–335
Municipalities Reform Act 2010, 778–779
National Service Plan, 912–913
Opportunities in the East - A Feasibility Study update, 563
Optometrists and Opticians Regulations 2010, 777–778
Public Access to Information Act, 3–4
Response to statements made at Public Accounts Committee Public Meeting 1 July 2010, 577

Russia, Primer's visit to, 126–127
Sargasso Sea Initiative, 284–285
Status of National Office for Seniors and the Physically Challenged, 123–125
Tech-Savy Seniors, 539–540
TechWeek Initiative, 7–9
Transport Control Department, improved Service at/upgrade to website, 5
Tynes Bay Waste-to-Energy Facility Refurbishment, 780–781
Vector Control in Bermuda, 645–647
VMWare donation to public schools, 283–284
Washington DC Visit - June 2010, 562–563
WestJet Airline Service to Bermuda, 564–565

Swan, Hon. Hubert (Kim) E.:
Bermuda Immigration and Protection Amendment Act 2007, review of, 468
Civil Airport (Amendment of Schedule) Order 2010, 798
Crime in Bermuda, 297–298, 528–531
Current Dry Spell (Question on), 185
Current Water Situation-Future Plans (Question on), 129
Gaming, green paper on, 28–33
GlobalHue Contract, 642–643
Initial Bilateral Meeting with Parliamentary Under-Secretary of State (Question on), 578
Liquor Licence Amendment Act 2010, 151–153
Marine Board Amendment Act 2010, 550–551
Mincy Report, 277–279
Motor Car Amendment (No. 2) Act 2010, 1033–1034
Municipalities Reform Act 2010, 933–942
Nursing Amendment Act 2010, 565–566
Overseas Territories Consultative Meeting, 325–326
Parental Responsibility Act 2010, 724–727
Parliamentary Election Amendment Act 2010, 1043–1044
Port (Amendment of Schedule) Order 2010, Consideration of draft order, 798
Taxi Cab Industry - GPS, 295–296
Tourism, 296–298
Traffic Offences Procedure Act 1974 Specified Penalties Amendment Notice 2010, 584–585
Traffic Offences Procedure Amendment Act 2010, 876–877
Welcoming of Dr. the Hon. Denzil Douglas, PM of St. Kitts and Nevis, 175
West End Development Corporation Amendment Act 2010, 808–809, 811–812

Swan, Mr. Charles F. B.:
Bermuda Housing Amendment Act 2010, 295
Civil Airport (Amendment of Schedule) Order 2010, 799-800
Climate change, impact of on Bermuda, 443–444
Commission for Unity and Racial Equality (Transfer of Functions) 2010, 512–513
Crime in Bermuda, 316
Culture Unwrapped (Question on), 578
Current Water Situation-Future Plans (Question on), 128
Department of Child and Family Services "Summer Experience 2010" (Question on), 926
Emancipation Programmes (Question on), 849
Gaming, green paper on, 90–91
ICA America's Regional Division 1 (Question on), 411
Labour Relations Amendment Act 2010, 557
Maritime Security (Harbour Areas) Restricted Zones) Order 2010, 555
Mincy Report, 228–231
Motor Car Amendment (No. 2) Act 2010, 1035
National Service Plan (Question on), 926
National Stadium, swimming pool at, 316–318
Parental Responsibility Act 2010, 715–717
Port (Amendment of Schedule) Order 2010, Consideration of draft order, 799–800
Sargasso Sea Initiative (Question on), 288
Tourism, 314–316
West End Development Corporation Amendment Act 2010, 808–809

T

Tucker, Mr. Darius D. M.:
Bermuda Immigration and Protection Amendment Act 2007, review of, 466–467
Climate change, impact of on Bermuda, 444–446
Cricket Management Practices, 907–909
Cup Match, exclusivity of vendors at, 768–770
Gaming, green paper on, 112–117
Mincy Report, 263–267
Morgan's Point Property, 1058
Motor Car Amendment (No. 2) Act 2010, 1034–1035
Municipalities Reform Act 2010, 992–997
Nursing Amendment Act 2010, 565
Parental Responsibility Act 2010, 708–710
Review of Bermuda Immigration and Protection Amendment Act 2007, 466–467

W

Weeks, Mr. Michael:
Gaming, green paper on, 110–111
Mincy Report, 276–277
Parliamentary Standing Committee on the Office of the Auditor General July 2010, 919–921

~~~~~

DATES OF SITTINGS:

7, 14, 21, 28 May 2010
4, 11, 18, 25 June 2010
2, 9, 16, 19, 23 July 2010
~~~~~