

2017/18 SESSION
of the
BERMUDA
HOUSE OF ASSEMBLY

OFFICIAL HANSARD REPORT

16 March 2018
Sitting number 23 of the 2017/18 Session
(pages 1749–1884)

Hon. Dennis P. Lister, Jr., JP, MP
Speaker

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BERMUDA HOUSE OF ASSEMBLY

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16 MARCH 2018
10:06 AM

Sitting Number 23 of the 2017/18 Session

[Hon. Dennis P. Lister, Jr., Speaker, in the Chair]

PRAYERS

[Prayers read by Mrs. Shernette Wolffe, Clerk]

CONFIRMATION OF MINUTES

[Minutes of 7, 9 and 12 March 2018]

The Speaker: Good morning, Members.

Members, Minutes of the last three sittings, those of the 7th of March, the 9th of March, and the 12th of March have been circulated.

Are there any corrections or omissions to any of those Minutes? No corrections, no amendments, no omissions.

The Minutes from the 7th of March, the 9th of March, and the 12th of March are now confirmed.

[Minutes of 7, 9, and 12 March 2018 confirmed]

MESSAGES FROM THE GOVERNOR

The Speaker: There are none.

ANNOUNCEMENTS BY THE SPEAKER OR MEMBER PRESIDING

The Speaker: There are none.

MESSAGES FROM THE SENATE

The Speaker: There are none.

PAPERS AND OTHER COMMUNICATIONS TO THE HOUSE

The Speaker: We have four papers and communications to the House today.

The Clerk: In the name of the Premier.

The Speaker: All four are in the name of the Premier.

We are going to have one of the other Members table the papers for him because the Premier has given an indication that he is going to be delayed. I think it is the Deputy Premier.

[Inaudible interjections]

Hon. Walter H. Roban: Absolutely, Mr. Speaker. Thank you very much.

The Speaker: Continue.

INTERNATIONAL COOPERATION (TAX INFORMATION EXCHANGE AGREEMENTS) COUNTRY-BY-COUNTRY REPORTING AMENDMENT REGULATIONS 2017

Hon. Walter H. Roban: On behalf of the Honourable Premier and Minister of Finance, Mr. Speaker, I am honoured to attach and submit for the information of the Honourable House of Assembly the International Cooperation (Tax Information Exchange Agreements) Country-by-Country Reporting Amendment Regulations 2017, proposed to be made by the Minister responsible for Finance under the provisions of section 12 of the International Cooperation (Tax Information Exchange Agreements) Act 2005.

The Speaker: Thank you, Deputy. Continue on with the next one.

INTERNATIONAL COOPERATION (TAX INFORMATION EXCHANGE AGREEMENTS) COMMON REPORTING STANDARD AMENDMENT REGULATIONS 2017

Hon. Walter H. Roban: Mr. Speaker, I have the honour to attach and submit for the information of the Honourable House of Assembly the International Cooperation (Tax Information Exchange Agreements) Common Reporting Standard Amendment Regulations 2017, proposed to be made by the Minister responsible for Finance under the provisions of section 12 of the International Cooperation (Tax Information Exchange Agreements) Act 2005.

The Speaker: Thank you, Deputy. Continue on.

REVENUE (APPOINTMENT OF CUSTOMS AREA) (BERMUDA MAIL PROCESSING CENTRE) NOTICE 2017

Hon. Walter H. Roban: Mr. Speaker, I have the honour to attach and submit for the information of the

Honourable House of Assembly the Revenue (Appointment of Customs Area) (Bermuda Mail Processing Centre) Notice 2017, proposed to be made by the Collector of Customs under the provisions of section 36(1) of the Revenue Act 1898.

The Speaker: Thank you, Deputy.

REAL ESTATE BROKERS' LICENSING REGULATIONS 2017

Hon. Walter H. Roban: Mr. Speaker, I have the honour to attach and submit for the information of the Honourable House of Assembly the Real Estate Brokers' Licensing Regulations 2017, proposed to be made by the Minister responsible for the Registrar of Companies under the provisions of section 53 of the Real Estate Brokers' Licensing Act 2017.

Thank you, Mr. Speaker.

The Speaker: Thank you, Deputy.

PETITIONS

The Speaker: There are no petitions.

STATEMENTS BY MINISTERS AND JUNIOR MINISTERS

The Speaker: This morning we are going to have a lengthy session, it looks like. We have 10 Statements on the Order Paper today. Yes. And the copies are being circulated as we speak, I believe.

The first Statement is in the name of the Premier.

Mr. Premier, would you like to do your first Statement?

Hon. E. David Burt: Certainly, Mr. Speaker. Good morning, Mr. Speaker.

The Speaker: Good morning.

MINISTERS AND MEMBERS OF THE LEGISLATURE (SALARIES AND PENSIONS) REVIEW BOARD

Hon. E. David Burt: Mr. Speaker, the first Statement that I will be giving is in regard to the Ministers and Members of the Legislature (Salaries and Pensions) Act 1975.

Mr. Speaker, Honourable Members will recall that at our last sitting I tabled a Resolution for the consideration of this Honourable House related to the Ministers and Members of the Legislature (Salaries and Pensions) Act 1975. Mr. Speaker, Honourable Members will have also noticed that the salaries payable under the Act are unchanged. In keeping with the requirements of the Act, Mr. Speaker, I am pleased to advise Honourable Members that I have initiated the process for the appointment of a board to review these salaries in the terms set out in the legislation.

Mr. Speaker, I should advise Honourable Members that in spite of the legislative mandate to do so every two years no board under the Act has been appointed since 2011.

This matter has been the subject of comment by the Auditor General, who most recently observed, and I quote, "During our audit, no copies of the Minutes of the Meetings of Ministers and Members of the Legislature Salary Review Board was provided by the Accountant General's Chambers. Further inquiry revealed that membership of the board is being worked on, and, effectively, the board was dormant and there have been no meetings since April 2011. Therefore, the legal responsibilities of the board have not been met." And the recommendation from the Auditor General was, "Board establishment should be a priority."

Therefore, Mr. Speaker, I am pleased to put this matter on the appropriate footing in compliance with the law. Honourable Members will also be aware that the membership of the board is cross-party and draws also on professional expertise within the community. Accordingly, following consultation with you, Mr. Speaker, the President of the Senate, and also the Leader of the Opposition, I am pleased to confirm that the following persons have accepted my invitation to serve on the board: (I will list them in alphabetical order, Mr. Speaker.) Mr. Colin Blades, Ms. Liz Christopher, Mr. Robert Horton, Mr. Donald Scott, Dame Jennifer Smith, Mr. Doug Soares, and Mr. Gary Sousa.

For the avoidance of doubt, Mr. Speaker, as I stated in the earlier part of my Statement, all salaries for this upcoming year will remain unchanged as set out in the tabled Resolution, and we look forward to the report of the board as required under the Act.

The Speaker: Thank you, Premier. I believe you have a further Statement that you would like to do at this time.

Hon. E. David Burt: Yes. Thank you, Mr. Speaker.

An Hon. Member: Copies, Mr. Speaker?

The Speaker: Copies are being . . .

Hon. E. David Burt: Standing Orders on Statements: Copies do not go until I start speaking.

The Speaker: Premier, it is my House; I will set the tone. You are on your feet. Deliver your speech. Thank you.

Hon. E. David Burt: I will proceed when you are ready for me to start, Mr. Speaker.

The Speaker: I said, "deliver." You can start.

Hon. E. David Burt: Okay.

UPDATE ON PROGRESS OF INITIAL COIN OFFERING REGULATIONS (ICOS)

Hon. E. David Burt: Mr. Speaker, I rise today to provide an update to this Honourable House on the status of proposed legislation to regulate initial coin offerings in Bermuda. As Members of this Honourable House are aware, Bermuda has a long-standing reputation as a jurisdiction of choice for international business. In order to improve our competitive standing, we must continuously operate under our legislative framework to adapt to constant changes in market demands and other factors which impact our global position. This includes making adjustments to respond to emerging industries and technological innovation.

Mr. Speaker, Honourable Members may recall that, in November 2017, I announced the formation of a blockchain task force, which included a business development working group, and a legal and regulatory working group. The overall goal of the task force is to help create an ecosystem that is both well-known and attractive to businesses whose operations include the use of blockchain technology. Whether it is a start-up or a previously existing business with a long-standing history and reputation, or whether it is small, medium, or large, our intention is to bring more businesses, more jobs, and more economic growth to Bermuda.

The Business Development Working Group is charged with identifying new opportunities to increase Bermuda's global profile and with fostering new business relationships in this space. Meanwhile, the Legal and Regulatory Working Group is responsible for developing an appropriate legal framework to govern products and services related to financial technology, or FinTech.

Mr. Speaker, governments around the world are working to keep pace with new and innovative FinTech products, including digital assets such as bitcoin and ether. The market for digital assets—in particular, digital currencies—has expanded rapidly in the past few years, despite various points of volatility. While this new wave of digitising assets and currencies has resulted in substantial opportunity, it has also increased the risk of illegal activities such as cybercrime, consumer fraud, money laundering and terrorist financing. It is imperative that governments take appropriate action to mitigate the risk of these crimes occurring through the use of companies registered in their jurisdiction.

Let me be clear, Mr. Speaker: The Government is well aware of Bermuda's obligations to maintain adherence to global standards. And we are well aware of the results of the recent OECD [Organisation for Economic Co-operation and Development] assessment and the imminent FATF [Financial Action Task Force] assessment. As such, we are taking a measured approach to entering this space. We started on this path with the appointment of persons to the Legal and Regulatory Working Group who are familiar with, and protective of, Bermuda's global reputation. The members of this working group include former Attorney General and Honourable Member, MP Michael Scott; technical officers from the Ministry of Economic Development and Tourism, and the Ministry of Finance, including the National Anti-Money Laundering Committee; representatives from the Bermuda Monetary Authority and Bermuda Business Development Agency; and representatives from the banking and legal industries within the private sector.

Additionally, this initiative is being spearheaded by the Minister of National Security, the Honourable Wayne Caines, who in November was assigned responsibility for ICT policy and innovation. I would also add that the Honourable Minister is both a lawyer and former chief executive of one of Bermuda's leading telecommunications companies. The appointments of Minister Caines and the members of the Legal and Regulatory Working Group were strategically made to ensure that there was diversity of perspectives, knowledge, and experience engaged in this initiative.

Mr. Speaker, we live in a dynamic world which is constantly evolving as a result of technological innovation. The recent emergence of distributed ledger technology, which includes blockchain, has provided a foundation to disrupt and revolutionise traditional methods by which we live and transact business on a day-to-day basis. This technology has created new service offerings, new payment mechanisms, new investment opportunities, and new ways to raise capital for business ventures.

One example, which is becoming increasingly popular, is initial coin offerings, commonly referred to as ICOs. This new and innovative method of crowdfunding has increased opportunities for entrepreneurs and small and medium-sized businesses all over the world. Companies engaging in ICOs have experienced tremendous growth through increased funding from future customers and without the use of traditional funding methods such as commercial lending, venture capital investments, and initial public offerings of ownership interests. ICOs have been used to enhance existing product and service offerings to develop and implement new ones—all without the added cost and burdens of having to hire expensive middlemen to arrange transactions.

Mr. Speaker, Bermuda has an opportunity to become a global leader in this FinTech space by being one of the first countries in the world to specifically regulate ICOs. The proposed regulatory framework

will provide legal certainty to companies looking to conduct ICOs in Bermuda. As such, the Government will soon circulate for consultation a draft Bill containing proposed amendments to the Companies Act 1981 and the Limited Liability Company Act 2016, which will govern the conduct of ICOs in Bermuda. Under the proposed Bill, an ICO will be treated as a restricted business activity that will require consent from the Minister of Finance.

An application for consent will be required to include specific details regarding the following:

- persons managing the company conducting the ICO and the underlying digital asset offered for sale;
- the development and implementation of any product, service, or other project related to the ICO, including timelines for completion;
- the target amount to be raised through the ICO;
- rights, features, functionality, and intended transferability of the digital asset offered for sale;
- the technology to be used in confirmation of the ability of the technical platform to enable collection, confirmation, and storage of purchaser identity information; and
- compliance in auditing of ICO transactions.

The draft Bill includes minimum requirements that will be applicable to all ICOs. This includes mandatory disclosures of certain information relating to the company, the digital asset being offered for sale, and the rights of the purchaser to assist the public in making informed decisions about participating in any proposed ICO. To the extent that other laws govern the rights or features of a digital asset offered through an ICO, those laws will continue to apply and be enforceable. This includes securities laws.

Mr. Speaker, we recognise that there is a concern within well-established industries in Bermuda about digital assets such as bitcoin, and governments around the world are wrestling with the ever-growing threats related to these new products. However, we cannot remain in what we think is a comfort zone and miss out on an opportunity to be a world leader in an emerging industry. The innovative world of blockchain and distributed ledger technology is much bigger than bitcoin and other digital currencies. Embracing this new world with carefully measured regulation could lead to the attraction of new companies and capital investment to Bermuda; additional government revenues; new career, employment, and training opportunities for Bermudians; and laying the foundation for a prosperous future for later generations of Bermudians.

Mr. Speaker, following the consultation period, we intend to ask Parliament to meet at the earliest opportunity to debate legislation related to ICOs. Additionally, the Government is also engaged in consultation with the Bermuda Monetary Authority on additional legislation, dealing with digital asset businesses, that we intend to bring to this Honourable House.

Mr. Speaker, there is a clear opportunity for the Government to encourage the growth of a new industry in Bermuda and to enhance our regulatory environment at the same time. We will not stand in the shadows and watch it pass us by.

Mr. Speaker, in closing, I would like to thank the members of the Legal and Regulatory Working Group, the Bermuda Monetary Authority, and our external partners for their contributions to this Bill and the overall initiative to build a FinTech industry. I would like to thank the internal Government team within the Business Development Unit, the Ministry of Finance, the Ministry of National Security, and the Attorney General's Chambers for their dedication, hard work, and tireless efforts towards meeting the Government's goals on this project. Finally, Mr. Speaker, I would like to thank the Honourable Minister of National Security for his incredible display of optimism, motivation, and commitment to making this initiative a success.

[Desk thumping]

Hon. E. David Burt: He is affectionately referred to in many circles as the *Minister of Blockchain*, and deservedly so. Thank you, Mr. Speaker.

The Speaker: Thank you, Premier.

On the Order Paper, we have the next two Statements by Minister Wilson.

Minister Wilson, would you like to do your Statement now?

Hon. Kim N. Wilson: Yes, thank you. Good morning, Mr. Speaker.

The Speaker: You have the floor.

HEALTH WORKFORCE PLANNING

Hon. Kim N. Wilson: Mr. Speaker and Honourable Members, I rise this morning to inform you of the Health Ministry's activities to improve health workforce planning in Bermuda. As mentioned in the House on several occasions over the past two years, the Bermuda Health Strategy and the Health Action Plan 2014–2019 both included health workforce planning as a strategic priority for the health system.

Bermuda's health workforce planning effort was inspired by, and is aligned with, the World Health Organization's Global Strategy on Human Resource for Health: Workforce 2030. The overall goal is to "improve health, social, and economic development outcomes by ensuring universal availability, accessibility . . . and quality of the health workforce . . ."

As we know, Mr. Speaker, the health challenges facing Bermuda in the 21st century are com-

plex and long-standing. As in the rest of the world, including developed countries, there are many social, economic, political, cultural, and environmental changes that are impacting every aspect of life. The health system, in particular, is being impacted by multiple factors. And the health of Bermudians is impacted by all of these factors in a variety of ways.

Mr. Speaker, the objective of the health workforce planning process was to assess the current health workforce situation in Bermuda and identify strategic lines of action to improve it so as to address the health care needs of our residents well into the future. The specific task of addressing health workforce planning was assigned to the Office of the Chief Medical Officer [CMO].

While the effort was spearheaded by the Office of the CMO, it required the engagement and wholehearted participation of multiple sectors of the community over the past two years. Consultation included private, public, and hospital-based health care professionals; health administrators; human resource professionals; the statutory professional bodies; and education, insurance, immigration, and workforce development representatives. Technical guidance and support were also supplied to us by the Pan American Health Organization (PAHO).

Primary stakeholder consultation extended from April 2016 to December 2017. Health system data and health professional feedback were collected, using key informant interviews, focus groups, meetings with a core group of stakeholders in health, a review of relevant literature, and four major stakeholder workshops held between April 2016 and September 2017. The effort to create the situation analysis was very robust.

Mr. Speaker, the Ministry of Health wishes to publicly acknowledge the dozens of health system stakeholders who gave time and expertise to this project, and we extend our heartfelt gratitude to them.

Mr. Speaker, the health workforce planning process resulted in two documents, namely, the *Bermuda Health Workforce, 2017*, which provides a situation analysis and a context for the companion document, the *Human Resources for Health Strategic Plan, Bermuda, 2018–2020*. Both documents are published on the government website under Health Reports.

There were a multitude of interesting findings, as well as valuable consensus recommendations as to how to address our health workforce situation. I will offer just a couple of examples here as a preview, just to whet your appetite.

Mr. Speaker, not surprisingly, our population health information paints a picture of our Island community burdened by chronic preventable diseases. The evidence shows this will worsen over the coming decades unless there are changes. The future clearly requires a health workforce that is highly skilled and capable of effective health promotion, health education, and complex chronic disease management.

Several categories of health care professionals were evaluated in terms of composition, numbers, skills mix, and qualifications. The findings were interesting, and the implications thought-provoking. For example, Mr. Speaker, our nursing professionals hail from a vast geographic distribution and reflect the global diversity of the health workforce in Bermuda. Currently, Mr. Speaker, only 28 per cent of nursing professionals are Bermudian, leaving the Island vulnerable to global social, economic, and political circumstances, and dependent on local immigration policy and procedures. As a result, the profession of nursing is considered a vulnerable category of health care professionals in Bermuda.

Mr. Speaker, amongst medical practitioners, there is the perception of an oversupply of general practitioners, many non-Bermudians, and a heavy reliance on non-Bermudian specialist expertise. The situation has a clear explanation, but one which must be carefully managed to ensure both stability in the primary care sector and an adequate number of specialists in essential areas. Specialties anticipated to be of importance for managing chronic preventable conditions in the coming decades are geriatrics, internal medicine, oncology, and some of the surgical subspecialties. Opportunities must be identified to attract Bermudians to the areas of medicine with a projected need and to ensure that their training is of a uniformly high quality.

Mr. Speaker, *Human Resources for Health Strategic Plan, Bermuda, 2018–2020* aims to ensure that Bermuda is prepared to meet 21st century health needs. The recommendations focus on three important strategic areas:

1. Governance—this includes improving regulatory oversight of the health professions, developing a health information system and database, and collaborating to reform health care financing and reimbursement.
2. Education and training—this includes improving scholastic achievement of Bermuda's school children by promoting STEM (Science, Technology, Engineering, and Math) education so that young Bermudians can qualify for careers in health. It also recommends providing training opportunities for adult workers to allow those interested to transition into health fields.
3. Access to quality human resources for health—that is, allowing efficient recruitment and retention of health professionals, and ensuring that health professionals maintain the highest level of competence, especially in the areas of prevention and management of chronic diseases.

Mr. Speaker, in the coming year, the Ministry of Health looks forward to using this information and

continuing collaborations with health stakeholders, including the general public, to ensure that Bermuda has the necessary human resources for health.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister. Would you like to go ahead and do your second Statement at this point?

Hon. Kim N. Wilson: Yes, with your leave. Thank you, Mr. Speaker.

The Speaker: Continue on.

SUGAR TAX CONSULTATION RESULTS (INTERIM REPORT)

Hon. Kim N. Wilson: Mr. Speaker, I rise again to inform this Honourable House of the preliminary findings from the sugar tax consultation. Honourable Members will recall that the Speech from the Throne of September 2017 indicated that the Government would begin consultation on the introduction of a sugar tax on certain foods and beverages in Bermuda. On January 4, 2018, the Ministry of Health published online a consultation document which outlined proposals for a sugar tax. The public were invited to respond during the consultation period, which lasted eight weeks and ended on the 1st of March 2018.

Mr. Speaker, we received at the Ministry 345 responses to the consultation document. Due to the number of responses, which also included detailed text commentary and feedback, we have prepared a preliminary interim report to provide a summary overview of the consultation feedback. The *Sugar Tax Consultation Results (Interim Report)* is available on our web site under Health Consultations.

Mr. Speaker, in summary, the findings of the consultation were as follows:

- there was more support for a sugar tax than opposition (52 per cent in favour and 44 per cent against);
- 100 per cent fruit juice should not be included at this time (63 per cent agreed and 29 per cent disagreed);
- milk-based items should not be included at this time (51 per cent agreed and 37 per cent disagreed);
- dilutables should be taxed (47 per cent agreed and 38 per cent opposed);
- candy should be taxed (60 per cent agreed and 31 per cent opposed);
- the tax should be 75 per cent (43 per cent in support).

Mr. Speaker, the Government undertook this consultation in order to hear the views of the public on a proposed framework in order to refine policy proposals that we can consider for implementation. The Government is serious about reducing chronic diseases in Bermuda and considering all the options to reduce the impact of lifestyle-related health problems. Indeed, in addition to the sugar tax consultation, duty rate amendments were developed to eliminate the duty on healthy essential foods such as some fresh fruits and vegetables. This is all in an effort to help Bermuda eat a healthier diet to prevent chronic diseases like diabetes.

Mr. Speaker, while we await the full analysis of the responses, the Ministry is conscious of the valuable public discussion that took place during the consultation period, which highlighted other things we should consider beyond the proposals that were set out in the consultation paper. The comments and feedback received from members of the public will be analysed in detail in the full Consultation Report so that we can then look for better ways to address the concerns, such as the opinions expressed about whether items like diet drinks and chocolate should be included.

Mr. Speaker, in addition, the Government is also conscious that concern was raised in the public dialogue that the proposal to tax raw sugar could negatively impact small local businesses such as bakers. In contrast, imported baked goods were not proposed to be subject to the tax, potentially creating disadvantages for local businesses. This concern will be considered further as the consultation feedback is analysed and as we refine the policy direction. Options may be available to help us advance the policy objective to reduce sugar consumption without disadvantaging local businesses. I am certain that we will be able to find the right balance to promote healthier eating amongst our residents.

We have to consider all of the feedback in full, Mr. Speaker. For now, I just want the public to be aware that we have listened to the discussion, and are using the feedback to develop and refine the policy options to implement a sugar tax that is feasible in, and meaningful to, our local context. Mr. Speaker, we are very pleased with the extensive feedback and public discussion instigated by this consultation process, and I will come back with more information by the next Parliamentary term. Thank you, Mr. Speaker.

ANNOUNCEMENT BY THE SPEAKER

HOUSE VISITORS

The Speaker: Thank you, Minister.

We have further Statements. But, Minister Burch, before I recognise you, just hold on for one second. I would just like to recognise that, in our audience today, we have with us, visiting for their annual Theatrical, the Harvard Hasty Pudding Theatricals group, visiting. And we would just like to acknowledge them in our Gallery this morning.

[Desk thumping]

The Speaker: We trust that, as they are here doing their theatrical parts, they will also take time out to enjoy our Island. And we look forward to your coming back on many more occasions and visiting our shores.

Good morning.

An Hon. Member: Will they sing for us, Mr. Speaker?

The Speaker: I beg your pardon?

An Hon. Member: Will they sing for us?

The Speaker: Would you like to sing for them?

An Hon. Member: No, no.

[Statements by Ministers, continuing]

The Speaker: Okay. All right.

We had a Member who, I thought he was offering to sing for you that time. But he declined it.

Good morning, Minister. You have the floor.

Lt. Col. Hon. David A. Burch: Good morning, Mr. Speaker. I am sure they will get some theatrical ideas from us, as well.

[Laughter]

ALL-TERRAIN VEHICLES (ATVs)

Lt. Col. Hon. David A. Burch: Mr. Speaker, I rise this morning to report further on the proposed ATV Tours for the West End of the Island. Before doing so, however, there is some merit in recapping how we got to this place.

Mr. Speaker, not surprisingly, the proposal generated considerable interest in the community amongst both environmental organisations and individuals [expressing their views]. This proposal predates this administration and, in fact, was approved of by the former Government without fully complying with the rules.

Some Hon. Members: Hmm!

Lt. Col. Hon. David A. Burch: After assuming office, an approach was made to the Ministry to present the proposal for our consideration. We set about following our own course of due diligence to assure ourselves that we had considered all the facts in this proposal, followed the law, and would not be influenced by a biased media campaign designed to discourage support.

Mr. Speaker, after consultation with the Attorney General's Chambers and the Department of Parks, we recognised that section 4 of the Bermuda National Parks Act 1986 required the Ministry to provide an opportunity for the general public to comment on the proposal. That consultation occurred from the 1st to the 14th of November 2017, resulting in 628 valid responses—2 in favour and 626 against. The two largest number of reasons given by responders related to Danger, Traffic Congestion, and Safety (54 per cent); and Environmental Impact and Pollution (51 per cent).

Many of the objections, Mr. Speaker, were lodged without the full knowledge of all of the specifics of the operation, such as the following:

- the vehicles are not the ones seen on television and repeatedly highlighted in the print media as the ones proposed for this venture;
- the proposal is for guided cultural tours by qualified tour guides;
- permission to import a maximum of 10 vehicles has already been granted, but the current plan is for tours of eight persons—six customers and two tour guides . . .

I do not want to interrupt you, Mr. Speaker.

The Speaker: Go right ahead. Go right ahead. I have got two ears, Minister. I have got two ears.

Lt. Col. Hon. David A. Burch:

- the vehicles will not traverse any virgin land, but will utilise the paved Railway Trail and service roads;
- the operating hours of 10:00 am to 4:00 pm, Monday to Friday, are more than reasonable and will not impinge on many of the other users of the Trail.

Mr. Speaker, to be clear, in spite of my honest and frank publicly expressed views on the nature of some of the objections, as I indicated then, I did consider each and every submission before arriving at a decision. Public consultation is a valuable part of our democracy, and it is good to see Bermudians making their views known on a wide range of issues.

Mr. Speaker, on the 8th of February 2018, the Transport and Regulatory Affairs Minister and I visited the Beacon Hill Depot for a pre-arranged visit and inspection of the vehicles in question. We were also afforded an opportunity to ride them to gauge their functionality and speed. Needless to say, Mr. Speaker, the operation did not remotely resemble what has been portrayed in the local media. During that visit, the proprietors provided us with all of the necessary documentation and approvals from the various government and private agencies, the Department of Parks, the Transport Control Department (inclusive of insurance coverage for that very day), as well as confirmation of First Aid certification.

Mr. Speaker, this Government's view is that the Railway Trails can and should be for the use and enjoyment of the widest cross section of visitors and locals alike. And no one group should have exclusive rights to its use. The plan to have guided educational

tours, we believe, will find favour with that constituency, as well.

As such, Mr. Speaker, I am granting approval for a Licence to Use Vehicles on Government of Bermuda Property for a trial period of one year. The conditions of the licence are such that it will allow for termination of the licence if terms and conditions of operation are not adhered to. Additionally, we will enter into a lease agreement with the operators for the rental of the former bus terminal building at Beacon Hill. We believe that this initiative will find particular favour with our cruise visitors interested in cultural tourism.

Mr. Speaker, if at any time they are found to be acting in contravention of the agreement, it can be suspended or cancelled in accordance with the Act.

Mr. Speaker, I cannot end this Statement without commenting on the vision, steadfastness, detailed research and patience displayed by the Hollis family in this enterprise. Both the Transport Minister and I were impressed with their depth of knowledge, desire to offer something different in the Bermuda experience, and their commitment to and love of this country.

Mr. Speaker, I am convinced that, given this opportunity and an approach of sharing, we all can continue to enjoy the Railway Trails.

Thank you, Mr. Speaker.

[Desk thumping]

ANNOUNCEMENT BY THE SPEAKER

HOUSE VISITOR

The Speaker: Minister, thank you for that.

Before you move on to your next Statement, I would just like to recognise that Mr. Hollis is in the Gallery this morning.

Lt. Col. Hon. David A. Burch: Excellent. Thank you, Mr. Speaker.

[Statements by Ministers, continuing]

The Speaker: Continue on with your next Statement.

THE GOVERNMENT ESTATE

Lt. Col. Hon. David A. Burch: Mr. Speaker, you will know from the Budget Debate for the Ministry of Public Works that Cabinet recently approved the introduction of revised space standards for government offices in order to make more efficient use of space and to reduce costs.

Mr. Speaker, as part of the Public Service Reform Initiative, Cabinet considered a number of issues in respect of asset management, one of which was the need to ensure that a consistent approach is adopted in the layout, design, finishes, and furnishings of government office accommodations. The goal is to provide effective government services in a sustainable, safe, and healthy work environment that makes efficient use of space and affords greater value for money.

Mr. Speaker, the existing government office space standards have not changed for decades. They are now considered overly generous and the layouts inefficient compared to the more modern, flexible, and collaborative work environments common in the private sector. With annual expenditure of approximately $8.9 million on rents paid to private sector landlords, savings can be had by more efficient use of space both within government-owned buildings and those rented from the private sector. Savings are not limited to rents, as other operating costs, including electricity and maintenance, will also decrease as the space occupied is reduced.

Mr. Speaker, the existing office space standards provide for 250–300 square feet for a minister, 200–250 square feet for a permanent secretary, 150 square feet for a director, and 100 square feet for staff. In addition to this, a further 15 per cent is provided for circulation space. Conversely, the requirements of the Occupational Safety and Health Regulations 2009 require a minimum of 43 square feet per employee. The revised space standards provide for 200 square feet for a minister, 150 square feet for a permanent secretary, 100 square feet for a director, and 65 square feet for an officer, with no additional allowance for circulation. The reductions range from 35 per cent for general staff to 66 per cent for department heads.

Mr. Speaker, it is further agreed that the layout of government offices should be based on an open plan, to make better use of space, improve collaboration and communication, as well as provide a more flexible office environment. The offices are to be furnished with trader-style desks, common in the private sector, as opposed to the work stations of old that effectively created individual offices. Only ministers, permanent secretaries, and directors are to be provided with a private office. Small conference rooms will also be provided for confidential discussions or meetings with staff.

Mr. Speaker, it is recognised that there are some government services and operations that do not fit the new office format and have special requirements, owing to the nature of those activities. These will be reviewed on a case-by-case basis and require the written approval of the Minister of Public Works before deviating from the approved space standards.

Mr. Speaker, it will not come as a surprise to you that there has not been widespread acceptance of this new policy throughout the civil service.

The Speaker: It is not a surprise, eh?

Lt. Col. Hon. David A. Burch: So, to set the example, the lead entity in communicating and enforcing this message—the Estates Department—will lead by example and be one of the first departments to transition to an open floor plan that will see the chief surveyor and his management team occupy a desk on the office floor.

Mr. Speaker, I have also ordered a complete review of all private sector rental accommodations presently occupied, with a view to reducing those costs dramatically, either by moves into government-owned accommodation or alternatively, more economical private sector rentals. That review has started with some of the legacy private sector rentals, and, so far, HM Customs departments, presently located in three private sector locations at Hamilton Hall, Magnolia House, and L. F. Wade International Airport, will relocate to offices at 131 Front Street.

Now, before I am asked, it is owned by the Silver Wood Trust, in which MP Zane De Silva and his family are beneficiaries. It is likely that other government departments will relocate there, as well. The Estates Department have already looked at other available space in the building with a view to other potential moves there. Mr. Speaker, I can report that the Collector of Customs and her leadership team are excited about the move and have already identified benefits to their operational efficiency by combining these three areas under one roof.

Finally, Mr. Speaker, I can report that the Bermuda Housing Corporation has entered into an agreement to purchase the IAS Park Building at 44 Church Street—where its offices are currently housed—for a price of $4.85 million. There are currently two private sector tenants occupying one-half of a floor in that building, and they shall remain for the time being, while the two upper floors, which are vacant, are being prepared to accommodate several government departments from predominantly private sector rentals.

The purchase of the building at 44 Church Street, in close proximity to several government buildings, will also afford us the opportunity to strategically plan office moves with greater flexibility, and approach our accommodation needs in a more structured manner. Also, housing those government offices that engage in frequent public contact in easily accessible storefront spaces is another benefit. Retrofitting utilities such as office lighting to automatically turn off when offices are not in use will provide additional cost savings.

Mr. Speaker, what these moves afford us are dual savings to the public purse by implementing the new space standards, moving into more economical accommodation and thus limiting increases in government expenditures and, ultimately, our taxes.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister.

The next two Statements, I believe, are in the name of the Minister of National Security. Minister Caines, would you like to take the floor?

Hon. Wayne Caines: Good morning, Mr. Speaker.

The Speaker: Good morning.

Hon. Wayne Caines: Mr. Speaker, the first Statement I would like to read is the Statement on the Montgomery Summit 2018.

The Speaker: Continue.

Hon. Wayne Caines: Sir?

The Speaker: Continue.

MONTGOMERY SUMMIT 2018

Hon. Wayne Caines: Mr. Speaker, I wish to update this Honourable House about my visit to Santa Monica, California, last week to attend the very prestigious Montgomery Summit.

Mr. Speaker, the Montgomery Summit is now in its 15th year as a leading innovation conference, which attracts a community of investors, executives, and entrepreneurs from all across the US and the world. The aim of this conference is to promote exploration of trends and opportunities in the innovation economy. This year, attendees totalled over 1,200.

Mr. Speaker, the two-day agenda included panel discussions, presentations, keynote speakers, one-on-one meetings, and thought-leadership sessions on technology-related topics such as blockchain, virtual currencies, and artificial intelligence (AI). Bermuda's attendance was organised by the Bermuda Business Development Agency [BDA] and included myself and representatives from both the Bermuda Business Development Agency and industry partners. We were pleased to work with John Narraway of the Bermuda Business Development Agency; Chris Garrod of Conyers; Bermudian Gina Pereira, CEO of a Los Angeles-based private-client advisory firm called Dana Philanthropy; and Aron Dutta, the founder, chair and CEO of Bermuda-based VAPHR. VAPHR is a Bermuda-based blockchain accelerator that, last year, selected Bermuda as its global platform hub.

Mr. Speaker, the conference provided fruitful opportunities to meet start-ups and investors, and talk to them about the value that Bermuda can bring and offer in the blockchain and digital currency arena—particularly, our respected regulatory environment and the certainty that our domicile provides for ventures looking to expand internationally. Many of the early-stage start-ups we spoke with were high-growth companies looking for an international strategy. Attendees were responsive to the fact that Bermuda is tech-friendly and that our jurisdiction, unlike many others,

moves ideas forward quickly, thanks to collaboration between our public and private sectors.

Mr. Speaker, events highlighting Bermuda included a breakfast meeting hosted by the Bermuda Business Development Agency for invited guests, including venture capitalists and start-up executives. The conversation allowed Team Bermuda to connect with a targeted audience interested in learning more about Bermuda, and I and others were able to engage in a productive question-and-answer session. Another event featured Bermuda participants in a special panel discussion open to all summit attendees. The panel discussion was entitled "Bermuda: The New Value Equation." Here, we spoke of Bermuda's regulatory advantage in an increasingly complex business world. Again, we were able to stimulate discussion and questions, and useful contacts were made.

Mr. Speaker, media opportunities included a video interview with Nasdaq on day one of the event, which underscored Bermuda's history of innovation and entrepreneurism, and talked about how the Island's spirit of ingenuity is driving today's digital tool solutions. I also had the good fortune to be interviewed by the Montgomery Summit's own media, and this video will be distributed to attendees and posted on their website and the government website. Mr. Speaker, those whom we met with during the summit included the following:

- technology investor and futurist, Tim Draper, a venture capitalist, who led investment in Tesla, Twitter, and Skype, and has been a strong advocate of digital currency initiatives;
- Brian Mulligan, CEO of Mulligan Investment Bankers, a broker dealer specialising in media, telecom, entertainment, and tech. With 30 years in media and entertainment industries, he has served in the C-Suite of major media companies, world-class advisory firms and private-equity firms, including Universal Studios, Universal Pictures, FOX Broadcasting, and Seagram; and
- Ray Lee, the founder and Chief Technical Officer of Syndicoin, a blockchain service provider that provides clients looking to raise capital through an initial coin offering (ICO) process with a full-service platform that includes advisory, technology development, marketing, and discretionary investment. Its team comprises some of the world's most experienced blockchain developers, security experts, financiers and traders, who are looking to further legitimise and institutionalise the blockchain and token ecosystem.

Mr. Speaker, these were just a few of the many informative and productive discussions that the Bermuda delegation held over both days of the conference. One thing was clear: People whom we spoke with were excited about the Bermuda Government's plans in the blockchain and virtual currency sphere. We also had numerous opportunities to promote Bermuda as a top-tier jurisdiction, generally, and as the best choice for both start-ups and investors for global projects.

Mr. Speaker, our main message was that Bermuda is open for business in this fast-developing digital economy. And listening to the experts at the Montgomery Summit validated our efforts so far and our plans for the future. I wish to thank the members of the Bermuda Business Development Agency and our other industry stakeholders who attended. We thank them for their support of Bermuda and their dedicated work for the Island during the conference, and their follow-up to come on valuable contacts made. Thank you, Mr. Speaker.

The Speaker: Thank you, Minister. Would you like to do your second Statement now?

Hon. Wayne Caines: With your permission, sir.

The Speaker: Continue right along.

Hon. Wayne Caines: Thank you, sir.

100 JOBS

Hon. Wayne Caines: Mr. Speaker, I would like to update this noble House on a collaborative effort between the Ministry of National Security and the Department of Workforce Development to provide jobs for Bermudians.

Mr. Speaker, a fundamental goal since becoming Government has been to enact real and meaningful solutions aimed at improving the lives of the people in Bermuda in which we serve. Mr. Speaker, this Government envisions a Bermuda where:

1. decisions are made in Bermuda's best interests;
2. economic growth is sustainable and balances our social and environmental needs;
3. there is an economy that works for everyone and lays a foundation for broad-based prosperity;
4. opportunities for Bermudians in a global environment are maximised;
5. Bermuda's culture and historical legacy are valued, preserved and sustained; and
6. crime and other negative influences are successfully addressed.

The Ministry of National Security has worked hard to do its part to carry out this Government's vision, Mr. Speaker. In our short time as Government, we have introduced creative and innovative initiatives to meet the needs of our people. In fact, the Ministry of National Security is extremely proud of the work we have done in the last few months not only to reduce violence in our community, but also to facilitate an environment of healing, empowerment, and support.

Mr. Speaker, we have sought to do this in various ways, such as the creation of MOM Bermuda, a support group for mothers who have lost loved ones to gang violence. We have the Father's Support Group to support fathers who have lost loved ones to gang violence. We also have the Community Crisis Response Team, Peacebuilders, and the LIVE. LOVE. LIFE. anti-violence youth talent showcase.

So, you see Mr. Speaker, while it has only been eight months since we became Government, I do believe that we have accomplished much. We are putting in place real solutions. We are engaging with our people. We are seeing success, and the momentum continues to grow.

And again, today, Mr. Speaker, I am pleased to add to our growing roster of initiatives and [positive] programmes the 100 Jobs initiative. As I announced earlier this week, the 100 Jobs initiative seeks to connect 100 unemployed Bermudians with 100 employers. The Ministry of National Security is very grateful to the team at the Department of Workforce Development, who are working in tandem with us on this project.

Mr. Speaker, the 100 Jobs initiative seeks to provide employment opportunities and skills-development to those persons looking for a chance to improve their lives. So, on Monday, March 26, 2018, at the Hamilton Seventh-day Adventist Youth Centre, from 4:00 pm to [7:00] pm, we will be hosting a job fair to bring together those who are seeking employment with potential employers. I urge anyone who is unemployed to attend. But first, Mr. Speaker, I would like for them to attend the Department of Workforce Development to sign up to receive the necessary training before they attend the actual job fair on March 26. So, the first step, Mr. Speaker, is to go to Workforce Development and sign up to be vetted to receive the training. And then, you show up on 26 March at the Hamilton Seventh-day Adventist [Youth] Centre.

Last evening, March 15, Mr. Speaker, we hosted a very successful meeting at the Police Recreation Club so that employers could hear our vision for 100 Jobs. We had around 80 employers attend. But we need more, so we encourage all interested businesses to get in touch with us. Please email us at nationalsecurity@gov.bm to find out more about participating.

Mr. Speaker, we believe that if persons are able to provide for their family and make a positive contribution to society, they are less likely to engage in antisocial behaviour. We see the 100 Jobs initiative as an excellent way for businesspeople, corporate entities, and small and medium-sized businesses to exercise their goodwill by helping to employ their fellow citizens. After all, Mr. Speaker, Bermuda is best served by the manifested commitment to help those who want and need help. Thank you, Mr. Speaker.

The Speaker: Thank you, Minister.

The remaining two Statements are from the Minister of Education.

Minister, would you like to take the floor?

Hon. Diallo V. S. Rabain: Thank you, Mr. Speaker.

The Speaker: Go ahead, Minister.

CAMBRIDGE REPRESENTATIVES' VISITS TO PUBLIC SCHOOLS

Hon. Diallo V. S. Rabain: Mr. Speaker, I rise this morning to share with my honourable colleagues and the listening public the work that was undertaken when two specialists from Cambridge International visited our public schools during the week of March 5th, 2018.

Mr. Speaker, on February 14th, 2018, I stood before the education and local community to share the Cambridge Checkpoint results and the IGCSE results for the 2017/18 school year. During that press conference, I advised the public that our students were not performing at the expected standards for English, Math, and Science, and that our greatest concern was the results for mathematics.

Mr. Speaker, I also informed the public that we would be taking action to improve these results. I communicated that the first step would involve representatives from Cambridge coming to Bermuda during the first week of March to conduct observations in math classrooms and to facilitate training sessions designed to improve the teaching of mathematics.

Mr. Speaker, last week, Cambridge International representatives, Ms. Abigail Barnett and Dr. Alison Borthwick, spent the full week on the Island observing teachers, collecting observation data, and providing intervention training for selected mathematics teachers at the primary and middle school levels. Ms. Barnett is the Deputy Director of Curriculum Programmes, inclusive of professional development, at Cambridge International, while Dr. Borthwick is a developmental mathematics consultant. Prior to arriving on Island, the Cambridge representatives spent time reviewing the Checkpoint results of our students in the primary and middle school levels, and also reviewing the National Mathematics Strategy implemented by the Department of Education in 2015.

Mr. Speaker, the Cambridge representatives commenced their visits by holding focused conversations with our students, teachers, principals, and technical officers. They visited a total of 10 schools and observed 500 students from P1 to M3 while the students were learning in their respective classroom environments. Evidence collected from their observations was used to develop recommendations on how we can re-focus the direction of mathematics in our public schools.

Mr. Speaker, it was pleasing to know that the first impression given to our Cambridge representa-

tives, as they reported, was that Bermuda has world-class public school students who are eager, intelligent, willing and keen, and who want to learn. They shared that our teachers are hardworking and that there was clear evidence of the Cambridge Curriculum being taught in classrooms.

Mr. Speaker, the representatives were delighted to find that the classroom environments were both friendly and positive. However, a primary observation pointed out to the department was the missed opportunities for our students to engage in deeper learning in many of the classrooms. Some of the practices that we have been implementing have not been the best practices. We recognize this, and now we will endeavour to improve the practices to do better. Thus, the Cambridge representatives have put forward a number of recommendations regarding teaching and learning at the primary and middle school levels. These include the following:

- increase the pace of learning;
- increase the quantity of work that students complete;
- make the assigned work more challenging;
- focus more on conceptual rather than procedural understanding;
- teachers should do less and engage students more in talking, thinking, and reflecting;
- give students more challenging work;
- scaffold less so that students build independent skills; and, finally,
- allow students more ownership for their learning.

Based on their findings and data, the Cambridge representatives also identified 10 areas of focus for mathematics instruction in our primary and middle schools.

Mr. Speaker, the representatives then conducted training sessions with teachers, focusing on these 10 areas they identified. And teachers will be expected to make a commitment to include all 10 areas in their lesson plans, with an emphasis on developing fluency, reasoning, and problem-solving. The 10 areas of focus will help teachers to concentrate on the essential practices that are expected in mathematics classrooms. These focus areas are as follows:

1. deliver the Cambridge curriculum;
2. structure lessons with a beginning, middle, and plenary;
3. use manipulatives;
4. use a mastery approach;
5. introduce fluency;
6. encourage reasoning;
7. encourage problem solving;
8. note the misconceptions in mathematics;
9. exercise questioning; and
10. develop positive dispositions.

Mr. Speaker, this professional development training for our teachers in mathematics was needed. We will endeavour to ensure that this type of training is ongoing as we move ahead. It is recognized that providing our teachers with constant professional development will help to enhance and build on the standard of teaching and learning in the classroom and, ultimately, improve the Cambridge score results for our students.

Mr. Speaker, let me highlight the next steps in our endeavour to improve the Cambridge results for our public schools. The Department of Education expects to receive a written report from the Cambridge representatives of their observations and assessment, within the next three weeks. Technical officers will then discuss next steps in securing long-term improvements for student outcomes at the primary and middle school levels. A comprehensive delivery plan will be developed that will comprise action steps, timelines, and accountability measures for the improvement of mathematics across the system. Lastly, the department will report out, on a monthly basis, the progress being made in our mathematics curriculum.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister.

No further Ministerial Statements?

Hon. Diallo V. S. Rabain: I have one more, Mr. Speaker.

The Speaker: Oh, I am sorry. I thought that was your last one. Yes, you do have one more. Go ahead, Minister.

SCHOLARSHIPS AND AWARDS FOR A DIVERSE BERMUDA

Hon. Diallo V. S. Rabain: Mr. Speaker, I am pleased to provide this Honourable House with an update on the Education Ministry's Scholarship and Awards offerings. First, let me say that I am heartened by the community response to our commitment to fund scholarships and awards for a diverse Bermuda. The Ministry was intent on introducing new scholarships and making them more accessible to a greater number of people. We have, therefore, continued to expand opportunities for post-secondary education and training to help support Bermudians of all ages, and various backgrounds and career interests. Through these investments in Bermuda's social and economic capital, we are demonstrating that we value promise, growth, and achievement, as well as diverse interests, careers, and abilities.

Mr. Speaker, I will now highlight our newest offerings and some changes that have been recently introduced. The new Minister's Applied Technology Scholarship is for graduating public school dual-enrolment students in the Bermuda College's Applied Technical Programme. Valued at $5,000 each, these scholarships will fund students to complete their asso-

ciate's degree at the Bermuda College once they have graduated from senior school.

We have transformed the Mature Student Award into the Non-Traditional Student Award, to focus on persons who have little or no college or university experience. The requirement for sophomore standing was eliminated, allowing persons without any college or university credit to apply. Also, the age eligibility was lowered from 35 years old to 25 years old, and applications for online study at accredited institutions are now being accepted.

We also have changed the Further Education Award, which will now fund students with at least one year of college or university credits. Previously, applicants were required to have sophomore standing. This will now help support students who need financial assistance for their second year of college or university, in addition to those in their third or fourth year of study.

We continue to recognise students with disabilities, many of whom have opportunities to attend post-secondary education, but have fewer opportunities for scholarships. In response to parent and community requests, we have expanded the age range for the Minister's Exceptional Student Award, allowing persons up to the age of 25 to apply. We are conducting outreach with Bermuda College, senior schools, and non-profits, and we hope that all eligible students apply. This award is available for the full range of disabilities. Questions regarding eligibility can be put directly to the Ministry.

Finally, Mr. Speaker, we introduced the Minister's Bermuda College Book Award valued at $500. This will help provide books to students in financial need so that they have these important resources to support their studies.

Detailed information on each of these scholarships and awards, as well as the Minister's Achievement Scholarship, Bermuda Government Scholarship, Teacher Education Scholarship, and the Minister's Technical and Vocational Award are all available on www.Bermudascholarships.com and on www.moed.bm.

Mr. Speaker, I would like to remind the House that the Ministry of Education has also extended its deadline for submitting applications for scholarships and awards to the 5th of April 2018. I encourage eligible applicants to avail themselves at this time to consider and apply for our scholarships.

I hope those pursuing post-secondary education are aware that more and more scholarship opportunities exist for a greater range of people. Therefore, I encourage parents, students, and other interested persons to review all of our scholarship opportunities and the many other scholarships available, on www.Bermudascholarships.com.

Mr. Speaker, despite these important changes to our scholarships and awards to help support more and more Bermudians, the Ministry of Education is acutely aware that the need exceeds the supply. We will therefore continue to review our approach to scholarships with an eye to not only improving what we do, but developing more and more opportunities to bring post-secondary education within reach of all Bermudians. Thank you, Mr. Speaker.

The Speaker: Thank you, Minister.

Now we have completed all of the Ministerial Statements this morning.

REPORTS OF COMMITTEES

The Speaker: I recognise the Deputy Speaker.

Deputy Speaker, you have the floor.

HOUSE AND GROUNDS COMMITTEE UPDATE

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

Mr. Speaker and Members of this Honourable House, I rise to report that the House and Grounds Committee met on seven occasions since the 18th of July 2017 to deal with the matters concerning urgently required renovations and maintenance work at Sessions House.

As Chairperson of the House and Grounds Committee, I am pleased to announce that over the Christmas recess major work was carried out successfully in what was the former Courtroom Number 2, which has now been converted into a new and refurbished Senate Chamber. Earlier in the week, new microphones were installed. It is anticipated that when Senators return to business after the Easter recess they, including members of the public, will be able to have access to verbatim proceedings of the Senate on our www.parliament.bm website.

Mr. Speaker and Members of this Honourable House, over the Easter recess we anticipate work to commence to convert a portion of the Library Committee Room into the Opposition Leader's Office, similar to that of the Premier's Office. Additionally, the air conditioners on the roof are to be removed, with major work to be carried out to address the several leaks. Members also agreed that during the summer recess the following renovation works would be undertaken:

- moving the current Opposition Meeting Room to the remaining area in the Library Committee Room;
- converting the current Opposition Meeting Room into a washroom;
- replacing the windows in the Sessions House Building;
- undertaking interior design and renovation of all of the administrative offices and entire upper floor; and
- carrying out additional renovations and alterations, as necessary.

Mr. Speaker and Members of this Honourable House, Members were asked to consider steps to further ensure the security of the Sessions House, such as the need for further restricted card access. I can happily report that certain restrictions are in place and that extra swipe pads to most entrances have been installed. Additionally, cameras can be found in many key areas on the upper floor and around Sessions House precincts. .

Mr. Speaker and Members of this Honourable House, on behalf of the House and Grounds Committee, I would like to acknowledge the assistance of the Departments of Public Lands & Buildings and Works and Engineering for constructing the Senate Chamber in a timely manner. I would also like to thank the Sergeant-at-Arms, Mr. Arnold Allen, for working very diligently on enhancing our security measures at Sessions House. Thank you, Mr. Speaker.

The Speaker: Thank you, Deputy Speaker.

No further reports.

QUESTION PERIOD

The Speaker: There are no written questions today. So we will move to the Statements.

Ministers, there are five Members who have indicated that they would like to ask questions regarding the Statements that were given this morning. The first is to the Premier.

Premier, you have a question from the Honourable Member Gibbons, from constituency 22.

And as always, we have an hour allotted for Question Period. It is now 11:15.

Member Gibbons, you can put your question.

Hon. Dr. E. Grant Gibbons: Good morning, Mr. Speaker, and thank you.

The Speaker: Good morning.

QUESTION 1: UPDATE ON PROGRESS OF INITIAL COIN OFFERING REGULATIONS (ICOS)

Hon. Dr. E. Grant Gibbons: Mr. Speaker, a question for the Honourable Member on his update on the progress of initial coin offering regulations.

Can the Honourable Member say whether, in the legislative framework that is being proposed, there is any requirement for the fiscal presence of those companies conducting ICOs?

The Speaker: Thank you, Member.

Premier.

Hon. E. David Burt: Thank you very much, Mr. Speaker.

Mr. Speaker, as indicated in the Statement, the draft Bill will go out for consultation with the public, shortly. And all Members, including the Opposition, will be allowed to comment.

The Speaker: Thank you.

Supplementary or new question?

Hon. Dr. E. Grant Gibbons: New question, Mr. Speaker.

The Speaker: New question? Go ahead.

QUESTION 2: UPDATE ON PROGRESS OF INITIAL COIN OFFERING REGULATIONS (ICOS)

Hon. Dr. E. Grant Gibbons: Yes. Mr. Speaker, can the Honourable Member state whether the ICOs, initial coin offerings, will be regulated by the Bermuda Monetary Authority or by another regulator such as the Registrar of Companies, within Government?

The Speaker: Premier.

Hon. E. David Burt: Thank you very much, Mr. Speaker.

Mr. Speaker, the draft consultation document will shortly be circulated for all to see. At that point in time, we will welcome consultation back from members of the public, including Members of the Opposition.

The Speaker: Thank you, Mr. Premier.

Further question?

Supplementary?

No further questions; no supplementaries. We will now move on to the next Statement which a Member has a question of. And that would be for the Minister of Health.

Minister of Health, you have a question in regard to your first Statement, on the Health Workforce Plan. And that is from the Honourable Member from constituency 20.

Honourable Member Jackson, you can put your question.

Ms. Susan E. Jackson: Thank you. Good morning, Mr. Speaker, and good morning, Minister.

The Speaker: Good morning.

QUESTION 1: HEALTH WORKFORCE PLANNING

Ms. Susan E. Jackson: Yes, my first question on the health workforce planning, I am just curious to know whether, under the second bullet point about workers, adult workers, to allow those interested to transition into the health field . . . this is on page 7, point number 2, the last sentence. I am just curious whether any statistic or information will be shared on the number of

jobs and the kinds of jobs and professions that would be best for adult workers to transition into?

The Speaker: Thank you, Member.
Minister.

Hon. Kim N. Wilson: Thank you.

Mr. Speaker, as the Statement indicated, the actual report does list in more detail some of the areas, human resource areas, for Bermuda that are needed. So one can avail themselves of that.

And, as it relates to the adult workers, as a joined-up Government, we actually will be working closely with Workforce Development so that, when career opportunities have been identified, where there are gaps in the health care system, then we will be able to work with Workforce Development, who will assist us with respect to the provision of training. Thank you.

The Speaker: Thank you, Minister.

Any further questions or supplementary?

We will take a supplementary from the Opposition Leader.

Honourable Member, you have the floor.

SUPPLEMENTARY

Hon. Jeanne J. Atherden: Sorry, Mr. Speaker, just a supplementary. And I would like to think that this has progressed, is progressing.

Could the Minister indicate to us whether, in addition to identifying their areas where there are gaps, and therefore areas where members might look to try and avail themselves of the job opportunities, whether, equally, the Workforce Development planning group is looking at areas where there are core competencies in other existing fields, where one could say, *If you are in this field, this is a field that you should look at in terms of transitioning* because it is identified that either the skills or the competencies in existing fields make them an easy transferability, with some training, or there are also where there is a glut. And, therefore, people should think about transitioning from A to B. Thank you.

The Speaker: Thank you, Member.
Minister.

[Pause]

The Speaker: Your comment was rather long. And we are trying to look for a precise question out of that for the Minister to respond to.

Hon. Jeanne J. Atherden: Oh.

The Speaker: I will give you a suggestion.

What I would suggest is that you put that in a short question so the Minister can respond to it.

Hon. Jeanne J. Atherden: Very short question: Has the workforce planning group looked at areas which can be identified as places where people should think about moving? I know you have identified where they should move to. But let us just say that it is a geriatric aide. Someone will turn and say, *Well, if you are a laundry worker or something in that area, this is a category where you can transfer because you have the skills and experience, and with enough training, you can move.*

The Speaker: Okay.
Minister.

Hon. Kim N. Wilson: Thank you, Mr. Speaker.

As I indicated in the Statement, part of the workforce plan has been to identify areas of need within the health workforce jurisdiction and remit within Bermuda. And, obviously, that goes hand in hand. If there are gaps, that will be identified; and if there are skill sets that can be utilised to fulfil those gaps, that, too, is identified.

The Speaker: Thank you, Minister.
Any further questions, or a supplementary?

Ms. Susan E. Jackson: I have a second question.

The Speaker: I think we have a supplementary. Let the supplementary go before your second question.

Honourable Member from constituency 22, you have the floor.

SUPPLEMENTARIES

Hon. Dr. E. Grant Gibbons: Yes. Thank you, Mr. Speaker.

Mr. Speaker, in terms of trying to find this balance between local practitioners and those brought in from overseas, will there be any efforts to, I would say, improve the due diligence being done by the Ministry or the Chief Medical Officer on requests to bring in overseas physicians, and their capabilities and past experience? As the Honourable Member knows, we have had some difficulties in the past in that area. Thank you.

The Speaker: Thank you, Member.
Minister.

Hon. Kim N. Wilson: Thank you, Mr. Speaker, and I thank that Honourable Member for that question.

As I have indicated, the Office of the Chief Medical Officer, in conjunction with a number of other both private and governmental agencies, are working together hand in hand with respect to identifying our

human resource needs and our strategies, moving forward. And part of that process, obviously, does include dealing with medical practitioners and receiving their input. And, as the Honourable Member outlined, there have been some challenges with respect to some speciality areas and the like. And, though we do recognise that there are gaps within the medical profession, as well as, particularly, specialist services, we are also trying to promote educational opportunities and encourage Bermudians to pursue those avenues so that we will have less reliance on overseas workers in particular areas of practice.

The Speaker: Thank you, Minister.

Any further supplementary?

Hon. Dr. E. Grant Gibbons: Thank you, Mr. Speaker.

Mr. Speaker, I think the Honourable Member took it in a direct way. I guess the question I had was, when I refer to *problems in the past,* I was referring to physicians who came in who were, I will say, less than qualified, and whom we ran into problems with as a consequence of their coming to Bermuda.

Will the due diligence be upgraded from that perspective? Thank you, Mr. Speaker.

The Speaker: Thank you, Member.

Minister.

Hon. Kim N. Wilson: Yes, thank you, thank you, Mr. Speaker, and thank you for that question.

The actual person, the Honourable Member who sits to my immediate right, and I have had discussions—obviously, his being responsible for Immigration and me with respect to Health—insofar as how we can best ensure that persons who are making applications for work permits in Bermuda, the due diligence checks are adhered to in order to ensure that we have properly trained individuals gracing our shores, and that the safety and well-being of Bermudians and their residents are of paramount consideration.

The Speaker: Thank you.

Any further supplementary?

Your second supplementary, Leader of the Opposition.

SUPPLEMENTARY

Hon. Jeanne J. Atherden: Yes, Mr. Speaker.

If the Minister could advise us, as it relates to specialties and physicians from abroad, what type of review does the Minister . . . and you mentioned the Minister of Workforce Development, labour. What type of correlation do the two departments have with respect to persons who come and offer services in Bermuda, and therefore do not actually practice? And what type of review do we perform to establish whether these are areas where we should be starting to encourage Bermudians to train and have these specialties, and not have people constantly coming and just parachuting themselves into Bermuda to offer services?

The Speaker: Thank you, Member.

Minister.

Hon. Kim N. Wilson: Thank you, Mr. Speaker.

Like I said, we are in the processes of trying to develop some type of . . . I do not want to say MOU, because, obviously, we are co-Ministers, but an engagement so that when persons do make applications to Bermuda, in addition to the fact that the Bermuda Medical Council, obviously, provides their input when persons are making applications for alocum, and so forth, to come into Bermuda. But again, that is something that is being addressed between myself and the Honourable Minister of Immigration, principally to ensure safety, as well as to ensure that the requisite qualifications and skills set of the individuals who are coming are adhered to.

In addition to that, on the other side, when we recognise . . . part of the Statement does speak about the education and training element for the Human Resources and Health Strategic Plan 2018–2020. When we recognise that there has been a prevalence in a particular area of a speciality that is coming to Bermuda, then part of that education process will include ensuring that we equip our Bermudian students and future students with the knowledge that this is an area of expertise that, obviously, can be garnered here in Bermuda, and we require that for future generations.

The Speaker: Thank you, Minister.

New question?

Ms. Susan E. Jackson: I have a new question.

The Speaker: Continue.

QUESTION 2: HEALTH WORKFORCE PLANNING

Ms. Susan E. Jackson: So, Minister, we can all acknowledge and recognise that there are a number of Bermudians who are qualified in the medical profession, living overseas for a number of reasons, whether it is for experience, continued education, or what have you. But I am just wondering, what is going to be put in place to identify Bermudians who are qualified in the medical field who would like to come back to Bermuda? And what is being done to give them an opportunity to return home and have a rightful place within the medical community?

The Speaker: Thank you, Member.

Minister.

Hon. Kim N. Wilson: Yes. Actually, that question is a little bit outside of the sphere of this Ministerial Statement—way outside. But I will try to answer with the knowledge that I do have.

The Bermuda Medical Doctors Association . . . Is that the right one? No, I think it is the [Bermuda Medical Council], actually. I actually attended a meeting several months ago with them, and the Chief Medical Officer indicated to me, Dr. Peek-Ball, that they are trying to gather as much information as they can about Bermudian students overseas, the areas in which they are studying, trying to remain connected with them so that they can try to encourage them with respect to areas that may be of use and need here in Bermuda, as well as to keep them informed and in the loop so that they know, what are the areas that have been identified under this particular initiative so that they know what the future needs for Bermuda will be.

The Speaker: Thank you, Minister.

Your third question or supplementary?

Ms. Susan E. Jackson: It is a supplementary.

The Speaker: Supplementary. Go ahead.

SUPPLEMENTARIES

Ms. Susan E. Jackson: Yes, because I do not find this way outside the scope. There are also a number of people, not only qualified, but maybe training outside of Bermuda in the health care industry. And I just want to make sure that this workforce planning is including the people who are preparing to come back to Bermuda, who are training outside of the Island in the field, so that they can have a place when they return home.

So again, even those who are training outside of Bermuda in the health care profession, how are they being included in this workforce plan so that they can have their place when they come home? And that includes nurses and doctors who are training overseas, presently.

The Speaker: Thank you, Member.

Minister.

Hon. Kim N. Wilson: Yes. Again, Mr. Speaker, as I said previously, there is outreach through the Bermuda Medical Council with all of the Bermudian medical students and trainees, and that is ongoing. So, efforts are being made to locate these individuals. And this is, obviously, the Bermuda Medical Council, which is not the Bermuda Government.

The Speaker: Thank you, Minister.

Any further questions?

Supplementary?

Ms. Susan E. Jackson: Yes, I have just one more supplementary.

The Speaker: Supplementary.

Ms. Susan E. Jackson: Does that mean that anyone in the medical profession who reaches out, desiring to come home, can reach out to the Medical Practitioners Council to find out more about how they may find placement here?

The Speaker: Thank you.

Hon. Kim N. Wilson: Mr. Speaker, the Bermuda Medical Council is not an arm of the Government. Obviously, the Government has our remit with respect to regulation and the like. There are over 28 professional bodies. And one would encourage all students who are studying overseas to get in contact with that professional body so that they can gather further information as to what is needed in the areas of expertise which are required in Bermuda. So, if there are any students who are listening (again, this has nothing to do with the Government) and they are interested in pursuing a career in medicine or wanting to know what are the areas that are going to be needed, we would certainly encourage them to directly contact the Bermuda Medical Council.

The Speaker: No further question for the Minister of Health on that particular Statement.

Minister, you have questions on your next Statement in regard to the sugar tax. The first question is from the Member from constituency 20.

Honourable Member Jackson, you have the floor.

QUESTION 1: SUGAR TAX CONSULTATION RESULTS (INTERIM REPORT)

Ms. Susan E. Jackson: Thank you, Mr. Speaker.

With regard to the sugar tax consultation, of the 345 responses, what is the breakdown? How many of those were online versus paper submissions?

The Speaker: Thank you.

Minister.

Hon. Kim N. Wilson: Yes, Mr. Speaker.

As my Statement indicated, of the 345 responses, this is an "interim" report. The consultation period was eight weeks. We received 345 responses, many of whom provided detailed submissions. So I was just bringing this Statement to the House to provide an interim report as to the overall statistics of this. When we get deep, down, and dirty insofar as the further details of that, I will endeavour to bring this back to the House. But as I indicated, the consultation ended only on the 1st of March. We are compiling all of

that information. And I will be providing a fulsome report in due course, as the Statement indicated, next term.

The Speaker: Thank you, Minister.

Supplementary or further question? Supplementary or new question?

Ms. Susan E. Jackson: This is a supplementary.

The Speaker: Supplementary.

SUPPLEMENTARIES

Ms. Susan E. Jackson: The Minister did not answer the question. I was just asking the number of submissions that were made online versus the number of paper submissions, which seems to me to be a very basic question to ask.

Hon. Kim N. Wilson: Thank you, Mr. Speaker.

Yes, I would anticipate a basic question to be asked from that quarter. However, Mr. Speaker, with respect, it is an interim report. And the interim report is providing the details that I have provided. We will provide a fuller report. The word "interim" suggests just that. A fuller report will be provided. And quite frankly, Mr. Speaker, whether or not the percentage . . . I would think that the Honourable Member might be more interested in the content as opposed to how many people provided online or how many people provided paper [submissions]. Needless to say, she is entitled to her question. The reality is, I will provide all of those details and, in particular, substantive information about what the consultation process revealed, in due course when we have analysed all of the results.

The Speaker: Thank you, Minister.

Any further questions?

Ms. Susan E. Jackson: I have a supplementary.

The Speaker: Second supplementary?

Ms. Susan E. Jackson: Yes.

I would like to ask the Minister if she may be able to provide the information around the online-versus-paper submissions before the full report.

The Speaker: Minister.

Hon. Kim N. Wilson: I will provide a full report to this Honourable House when we next attend our session, as soon as possible, within the third session.

The Speaker: Thank you, Minister.

New question?

Ms. Susan E. Jackson: New question.

The Speaker: Go ahead, Member.

QUESTION 2: SUGAR TAX CONSULTATION RESULTS (INTERIM REPORT)

Ms. Susan E. Jackson: So, I am just looking, Mr. Speaker, down at the percentages of the responses for support for this sugar tax versus the opposition. And I am noticing that there are some gaps. In particular, there are two relatively large gaps. One is the milk-based items. There is a 12 per cent gap. And the second large gap is the dilutables should be—

The Speaker: Can you put it in a question to the Minister now?

Ms. Susan E. Jackson: Yes, it is coming.

So, I would like to know, of the 12 per cent and 15 per cent, respectively, that are in between, could the Minister confirm that these percentages were undecided? What was the response of the 12 per cent and the 15 per cent?

The Speaker: Thank you, Member.

Minister.

Hon. Kim N. Wilson: Yes, thank you, Mr. Speaker.

Mr. Speaker, I believe—and I will stand by and provide that Honourable Member with more details, again, once I provide the full report. But I believe that, of the report there were 13 questions. And persons were entitled to answer as many or as few questions as they liked. So that 51 per cent represents 51 per cent of those persons who answered that question. So, not everybody answered every single question. And there were . . . oh, yes, and there were situations where persons said "Maybe" or they did not answer the question at all.

And also, in furtherance of the further question, all of the submissions that have been analysed have been filed online.

The Speaker: Thank you, Minister.

Any supplementaries? Or a new question?

Okay. All right.

Now, we move on to the next Statement that a Member has a question on.

[Inaudible interjection]

The Speaker: I asked if anyone had further questions, you know, on that Statement. Okay, you did rise.

The Honourable Member Simons, from constituency 8, would still like to put his question to you, Minister.

Member Simons.

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

The Speaker: Yes.

QUESTION 1: SUGAR TAX CONSULTATION RESULTS (INTERIM REPORT)

Mr. N. H. Cole Simons: Mr. Speaker, as we all know, there are low-valued nutritional foods. And a lot of those low-valued nutritional foods, once digested, convert to sugar. My question to the Minister is, Has she considered broadening the net to cover other low-valued nutritional foods like French fries, potato chips, white bread, corn, et cetera? Because they convert to sugar.

The Speaker: Thank you, Member.
Minister.

Hon. Kim N. Wilson: Thank you, Mr. Speaker.

I am hoping that the Honourable Member took advantage of the consultation process and filed his online responses for consideration.

At this point, Mr. Speaker, the detailed findings of the consultation process are being analysed. So whether or not persons during the consultation period revealed their interest in our pursuing, as an initiative, those type of foodstuffs, "low-valued foods", to quote my honourable friend, we will consider that. But I do not know. I have not read all of the responses as to this point. Persons may very well have included that in their submissions. I cannot answer that at this point.

But, I will, again, Mr. Speaker, provide to your honourable self and this Honourable House, in the next quarter, details of our findings and particularly the consultation submissions that were presented by the 345 persons.

The Speaker: Thank you, Minister.
Supplementary or further question?

Mr. N. H. Cole Simons: Supplementary.

The Speaker: Continue.

SUPPLEMENTARY

Mr. N. H. Cole Simons: Is it not the Minister's intention to recommend a flat tax across the board for low-valued foods?

The Speaker: Minister.

Hon. Kim N. Wilson: Mr. Speaker, I am not in a position at this point to answer that directly. Again, the whole purpose of the consultation was to invite members of the public to provide their input and their submissions on areas to be considered for the initiative of the introduction of a sugar tax, as outlined in the Throne Speech in September of 2017. Upon the conclusion of that exercise, I will be in a much better position to inform this House and the Honourable Members, as well as members of the public, as to the initiatives that the Government will introduce as they relate to the implementation of a sugar tax.

The Speaker: Thank you, Minister.
New question or supplementary?

Mr. N. H. Cole Simons: New question.

The Speaker: Continue.

QUESTION 2: SUGAR TAX CONSULTATION RESULTS (INTERIM REPORT)

Mr. N. H. Cole Simons: It is my understanding, from previous Statements, that this new tax was to, basically, help underwrite the cost of health care in Bermuda, especially because we are faced with various obesity challenges, diabetes, et cetera. My question to the Minister is, once these taxes are raised, will they go directly to health care or will they go to the Consolidated Fund?

The Speaker: Thank you, Member.
Minister.

Hon. Kim N. Wilson: Thank you, Mr. Speaker.

Mr. Speaker, I think it is . . . I would have to yield to the Minister of Finance, who is not here. But it is my understanding that everything goes to the Consolidated Fund unless it goes to the confiscated . . . oh, there is no money there, is there?

An Hon. Member: Ow!

Some Hon. Members: Oh!

Hon. Kim N. Wilson: But needless to say, Mr. Speaker—

[Desk thumping, laughter, and general uproar]

The Speaker: Members! Members! Members!

[Gavel]

The Speaker: Let the Minister continue.
Go ahead, Minister.

Hon. Kim N. Wilson: Mr. Speaker.

The Speaker: Go ahead, Minister.

Hon. Kim N. Wilson: Mr. Speaker, what I—

[Laughter]

Hon. Kim N. Wilson: Mr. Speaker, what I have said in the public, as well as was documented in the Speech from the Throne in September of 2017, is that part of the money that will be generated from this tax will go towards education so that persons will be made further aware of the strain on the health care system as it relates to obesity and diabetes caused directly, in many cases, by over-consumption of sugar. So we will be utilising some of the proceeds from this tax, upon implementation, to educate the public about a healthier lifestyle.

The Speaker: Thank you, Minister.

Do you have a supplementary? Supplementary?

SUPPLEMENTARY

Ms. Susan E. Jackson: So, the information that we have been discussing which is going into this sugar tax consultation interim report, when will it be online? I have had a look, and it is not there.

The Speaker: Thank you.

Minister.

Hon. Kim N. Wilson: Yes, I believe, actually, that it was meant to be going live as soon as I finish my question time.

The Speaker: Thank you.

Any further supplementaries? Any further questions?

No further questions.

Minister, that brings the questions with regard to your Statement to an end. Now we move on to the next Ministerial Statement, and that is in the name of the Honourable Minister of Works of Engineering.

Minister Burch, there is a question to you regarding your first Statement, on the all-terrain vehicles. And that comes from the Member from constituency 22. Member Gibbons, you have the floor.

QUESTION 1: ALL-TERRAIN VEHICLES (ATVs)

Hon. Dr. E. Grant Gibbons: Thank you, Mr. Speaker.

Mr. Speaker, on the second page of the Minister's Statement, he says, and I quote, "I am granting approval for a Licence to Use Vehicles on Government of Bermuda Property for a trial period of one year. The conditions of the licence are such that it will allow for termination of the licence if terms and conditions of operation are not adhered to."

My question for the Minister is, will the licence and its terms and conditions be made publicly available? Thank you.

The Speaker: Thank you, Member.

Minister.

Lt. Col. Hon. David A. Burch: Mr. Speaker, yes.

The Speaker: Thank you, Minister.

Supplementary or further question?

Hon. Dr. E. Grant Gibbons: A further question, Mr. Speaker. I thank the Honourable Member for that.

Let me go back. I would like a supplementary.

The Speaker: You would like a supplementary?

Hon. Dr. E. Grant Gibbons: Supplementary on the first one, yes.

The Speaker: Okay. Go ahead.

SUPPLEMENTARY

Hon. Dr. E. Grant Gibbons: Could the Honourable Member give us an indication of when that licence and its terms and conditions will be made publicly available, and how? Thank you.

The Speaker: Thank you, Member.

Minister.

Lt. Col. Hon. David A. Burch: Mr. Speaker.

The Speaker: Yes.

Lt. Col. Hon. David A. Burch: I continue to ask myself the question as to whether some of those people on the other side sat in Cabinet in the last Government. Because the document that I have from the Attorney General's Chambers, I believe, was prepared before we came to Government.

[Inaudible interjections]

Lt. Col. Hon. David A. Burch: And so, I have a draft document in which the terms and conditions have not yet been agreed, finally, with the proposer. But as soon as they are, it will be made public.

The Speaker: Thank you, Minister.

Supplementary or new question?

Hon. Dr. E. Grant Gibbons: Thank you, Mr. Speaker.

The Speaker: Supplementary or new question?

Hon. Dr. E. Grant Gibbons: No, it is going to be a new question.

The Speaker: New question.

QUESTION 2: ALL-TERRAIN VEHICLES (ATVs)

Hon. Dr. E. Grant Gibbons: But I will just say that a lot of time has elapsed between the prior Cabinet and now. So, I think the question was certainly valid.

The second question, Mr. Speaker, that I have is, will any Amendments to existing government legislation be required to allow the use of these specific vehicles on the Railway Trail? Thank you.

The Speaker: Thank you, Member.

Minister.

Lt. Col. Hon. David A. Burch: Mr. Speaker, no.

The Speaker: Thank you, Minister.

Supplementary? No further questions? No further questions on any matters? That brings us to an end of the Question and Answer period. We will now move on.

CONGRATULATORY AND/OR OBITUARY SPEECHES

The Speaker: Does any Member wish to speak?

I recognise the Deputy Opposition Leader. Honourable Member, you have the floor.

Ms. Leah K. Scott: Thank you, Mr. Speaker, and good morning.

The Speaker: Good morning.

Ms. Leah K. Scott: Mr. Speaker, this morning I would like to give congratulations to Shanell Vaughn—[associate] the Minister for National Security and the Minister for Social Development—for the "Peace Within: Prison Yoga Pilot Programme," which I saw in the paper the other day.

I am actually a yogi, and I believe in the effects of yoga. And I know that there have been studies which have proven that yoga has assisted people in prison in terms of their behaviour, in terms of their connection with and ability to relate to other prisoners, in terms of their actually understanding the reason that they did the things that they did.

So, I congratulate all of you on the effort, and I hope that it continues in the prison. Thank you.

The Speaker: Thank you.

Does any other Member wish to . . .

We recognise the Honourable Member from constituency 2. Honourable Member Swan, you have the floor.

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

I would just like to follow up on a condolence that I offered on our last sitting, for Ms. Barbara Smith, also many would consider Lema, as well. She was very much a fixture at Port Royal Esso Station and a very delightful person and colourful person. She reminded me of many of my dear friends who have that special trait to make you feel very, very special in the morning in her place of work, who passed away suddenly.

The Speaker: You made mention of this last week, right?

Mr. Hubert (Kim) E. Swan: Yes. I was just providing you with the correct name, for the record.

The Speaker: Okay. Continue on.

Mr. Hubert (Kim) E. Swan: And also, just carry on just a wee bit within the time that you allow me, Mr. Speaker.

And also, today is a special day for a very special lady in my life, Ms. Barbara Faith Swan, as she celebrates her birthday today. She is my mother, from Granaway Heights, in Southampton.

[Desk thumping and cheers]

The Speaker: Are you finished, Member? Thank you. Have your seat.

Would any other Member wish to speak?

I recognise the . . . are you just putting on your jacket, or are you getting up to speak?

[Inaudible interjection]

The Speaker: Oh.

[Laughter]

The Speaker: I recognise the Minister of Education.

Minister, you have the floor.

Hon. Diallo V. S. Rabain: That was hilarious. Thank you, Mr. Speaker.

Mr. Speaker, I would certainly like to associate the whole House with these comments. Mr. Speaker, I would like congratulations sent to the family of Harrington Sound Primary School, who will participate in the St. Baldrick's Day today. A special mention to Connor Stout, who lost his dad to cancer just before Christmas and will be shaving his head today, as well as several other students within the school in support of Connor and the terrible loss of his father just before Christmas. And I did say that I would like to associate the entire House.

The Speaker: Yes. That would be fitting, to do the whole House, yes.

Hon. Diallo V. S. Rabain: Thank you, Mr. Speaker.

An Hon. Member: Mr. Speaker.

The Speaker: Oh, I had looked to this side this time.

An Hon. Member: Okay. You can choose whomever you like.

The Speaker: I will let the Member to my left. Her bright colour caught my eye pretty quickly that time.

Honourable Member from constituency 23, you have the floor.

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

Mr. Speaker, I would ask that this Honourable House send congratulations to the organisers of the Hasty Pudding production that is on at the Earl Cameron Theatre this week. My Deputy Leader would like to be associated with the comments. Perhaps the whole House may wish to be associated, Mr. Speaker.

Mr. Speaker, I had occasion last night to actually see the production. And it was really very good comic relief, as we prepare for the intensity of the House session, and it was certainly well worth going and attending.

The Speaker: Brought you a little humour, eh?

Mrs. Patricia J. Gordon-Pamplin: Absolutely.

The Speaker: Good.

Mrs. Patricia J. Gordon-Pamplin: But the one thing that you may be aware of, Mr. Speaker, is that the when Hasty Pudding put these productions on they use an all-male cast. And individuals are cast in various other roles. And I can say that the production last night was tremendously well cast. It was really very, very excitingly done, provided lots of comic relief. And this will be the last time that they will be using an all-male cast in one of their productions, especially the ones coming here.

So, I think if anybody had the opportunity to see that Hasty Pudding production last night, if they have not had the opportunity yet, try and see it tonight. It is certainly well worth it.

The Speaker: It means you are going to make sure we get out early enough tonight, right?

Mrs. Patricia J. Gordon-Pamplin: Well, Mr. Speaker, I am not the Government.

[Laughter]

The Speaker: All right.

Mrs. Patricia J. Gordon-Pamplin: But, Mr. Speaker, the event was called *Intermission Impossible.* It was absolutely incredible. And I would certainly like to offer congratulations.

The Speaker: You did come in a little late. Members of the cast are in the Gallery this morning.

Mrs. Patricia J. Gordon-Pamplin: No, I did hear, Mr. Speaker.

The Speaker: Good.

Mrs. Patricia J. Gordon-Pamplin: I was not late. I was present, just not in the Chamber.

The Speaker: All right. Well, just letting you know they are in the Gallery.

Mrs. Patricia J. Gordon-Pamplin: Well, I am certainly happy to see them here, Mr. Speaker.

The Speaker: Yes. Okay.

Mrs. Patricia J. Gordon-Pamplin: But I think, more importantly, we need to be able to avail ourselves of the talent that was on display last night. And I certainly appreciated it, and would like congratulations to be sent.

The Speaker: I am sure they welcome your remarks. Thank you.

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

The Speaker: Would any other Member wish to speak?

I recognise the Honourable Minister of National Security. Minister Burch, he jumped along before you that time. You moved a little slowly.

Lt. Col. Hon. David A. Burch: But I gave you advance notice.

[Laughter]

The Speaker: Minister Caines—

[Laughter]

The Speaker: Minister Caines, you have the floor.

Hon. Wayne Caines: Mr. Speaker, I would like to ask the House to send congratulations to the men of Alpha Phi Alpha Fraternity, Incorporated. Last week, it was . . .

[Inaudible interjections]

Hon. Wayne Caines: I would like to associate the House. And I would like to declare my interest. I am a member of that organisation, Mr. Speaker.

Last week was something that they call Alpha Week. And this is when the organisation goes into the schools, and they go and conduct seminars. They go into the community, and they really work on making Bermuda a better place. They did a male leadership breakfast symposium last week and took leading young men from the high schools and were able to have the opportunity to spend time to motivate them. It culminated with a banquet on Saturday night, where a speaker, Mr. Mason West III, came and spoke to the [young men of the] country about reaching their potential.

I just want to go a little further with reference to what my colleague said with reference to the yoga programme. Mr. Speaker, I would like to ask, with Member Scott, that a letter be sent not only to the yogi, Ms. Shanell Vaughn, but also to the Acting Head of the Bermuda Prison Service, Ms. Keeva Joell-Benjamin. Mr. Speaker, some of these young men are in prison for very significant offences. Minister Weeks and I had the opportunity to spend time with them. They shared with us how yoga, the practice of yoga, helped them calm down. They spoke of how they were transported to a different place while they were in that specific setting. They spoke about how they were learning discipline skills and working through problems. One of the young men was incarcerated for murder. And he spoke to the learning lessons of how he learned to develop and manage and balance himself through breathing, through posing. I am not the person who has ever done yoga, Mr. Speaker. But I am glad that they were able to find this balance in their lives through this process.

Ms. Vaughn is a huge benefit to the prison. Six prisoners, members who are incarcerated, took advantage and received certificates upon completion of this eight-week exercise. It is my hope as Minister, Mr. Speaker, that we can have this programme and take it to the Westgate Correctional Facility for some of our young men who are incarcerated there.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister.

Minister Burch. You now have the floor.

Lt. Col. Hon. David A. Burch: Thank you, Mr. Speaker.

Mr. Speaker, I would ask that congratulations be sent to the Bermuda Industrial Union, and particularly President Chris Furbert, who yesterday launched their fifth Quadrennial Delegates Conference, Mr. Speaker. And the Executive of the Union, but a former Member of this House, was the guest speaker. And, Mr. Speaker, I can say, at 80 years of age—and I know that because he told us—he has not lost his touch. He had a prepared speech. (I will tell you who it is at the end of this.)

The Speaker: I think we all may surmise who that is.

[Inaudible interjections and laughter]

Lt. Col. Hon. David A. Burch: It will come as no surprise to you. He had a prepared speech, but he spoke for about 20 minutes off the cuff, and then pulled his speech out of his pocket. The great size of the auditorium and the current President of the Union pulled the gavel down on him. I speak of none other than the esteemed and Honourable Ottiwell Simmons.

The Speaker: Yes.

Lt. Col. Hon. David A. Burch: Mr. Speaker, I would ask that congratulations be sent to the Bermuda Industrial Union. This conference's subtitle is *The Struggle Continues: In Unity Lies Our Greatest Strength.* And I think that this motto could be extended to the entire community, Mr. Speaker. And so, I would ask that congratulations be sent to the Bermuda Industrial Union. Thank you.

The Speaker: Thank you, Minister.

I now recognise the Honourable Member from constituency number 20. The Honourable Member Jackson, you have the floor.

Ms. Susan E. Jackson: Thank you, Mr. Speaker.

I would like to send condolences to the family of Crayton Greene. He was a well-known person who lived in Bermuda for a number of years. His two daughters, Lynn and Shelly, are suffering today. He will be buried this afternoon, or his ashes will be spread. And I just wanted to acknowledge some of the milestones of Crayton Greene's life. He was a well-known photographer. He had The Camera Store for a number of years. I do not know if people remember that. And one of his, I almost want to say protégés, in that he provided an opportunity, was Mr. Richard "Dick" Saunders, a very, very well-known and accomplished photographer in Bermuda, an opportunity to participate in the professional field of photography at a time when black Bermudians were not included. And certainly, Mr. Crayton Greene did what he needed to do to make sure that Dick Saunders had an opportunity not only to thrive within his profession, but also to share his talents with the rest of the world.

Mr. Greene was also, I would say, an accomplished fisherman. He enjoyed fishing here in Bermuda and even in his late 80s was participating in tournaments and winning prizes for fish caught. And so, I just want to acknowledge that this is someone who deserves to be really acknowledged as having lived a full life in Bermuda and having participated. He was also very involved in Kentucky Fried Chicken for a

number of years as an executive there, and really participated in the fabric of our community. And I would just like to acknowledge and wish his family condolences.

The Speaker: Thank you, Member.

Does any other Member wish to speak?

I would like to recognise the Honourable Member from constituency 4. Honourable Member Furbert, you have the floor.

[Inaudible interjection]

Mrs. Tinee Furbert: Yes, I am on the other side.

Thank you, Mr. Speaker.

Mr. Speaker, I would like to send congratulations to Miss Nikita Robinson, who puts on every year World Book Day throughout our school system. She celebrates her birthday, and she does this as a gift back to our schools. And I am sure we all who participated would like to be associated with that. Very much less and less these days, with the use of technology, do children have access to books unless parents are encouraging them or teachers are encouraging them to read in school. But it is very important that we continue with the tradition of encouraging reading. And with the World Book Day, Ms. Nikita Robinson makes sure that this happens. So I would like to congratulate her.

I would also like to send a congratulatory to the Bermuda Industrial Union. They had their 10th Annual Women's Team last Saturday (and I will associate other Members who attended), organised by the BIU, including Sister LaVerne Furbert. They had the speaker, Sister Shirley Pryce, who is from Jamaica. And Sister Shirley Pryce represented the domestic unions in Jamaica. And she shared a very interesting story in regard to her journey as a domestic worker and what the collaboration of the unions has done for her and other domestic workers.

And lastly, Mr. Speaker, I would like to congratulate Dame Marjorie Bean Hope Academy for leading the charge this month in the awareness of the International Day of Persons with Disabilities, or Persons with Intellectual and Developmental Disabilities. Today I had the privilege of being able to attend a tree-planting at Government House. I would like to also acknowledge that the Minister of Education would like to be associated with that. They planted a tree in recognition of National Day of Developmental and Intellectual Disabilities. Very often, disabilities go under the radar, and it is important, when we have campaigns such as this, to bring awareness to the public of persons with disabilities, with intellectual and developmental disabilities, having their rightful place in society. Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

Minister. Minister Weeks. We now recognise you, Minister. You have the floor.

Hon. Michael A. Weeks: Thank you, Mr. Speaker, and good morning to you.

The Speaker: Good morning.

Hon. Michael A. Weeks: I would like to start out my remarks by asking to be associated with the remarks by the Minister of Education for the acknowledgement of St. Baldrick's Day down at the Harrington Sound Primary School.

I would also like to be associated with the remarks of the yoga for peace programme that was at the Co-Ed Facility for the last couple of weeks, with a graduation held on, I think, Wednesday. Mr. Speaker, Shanell Vaughn is really enthused about helping out in any way she can, in helping the young men in the prison system to better their lives and change their lives. But before I take my seat, I also want to acknowledge the contribution that the Department of Youth, Sport and Recreation does. I would like to acknowledge them for the fine job that they have done in partnering with National Security to have this programme put on.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister.

Does any other Member wish to speak?

I recognise the Honourable Member from constituency 26. Honourable Member Tyrrell, you have the floor.

Mr. Neville S. Tyrrell: Thank you, Mr. Speaker, and good morning.

The Speaker: Good morning.

Mr. Neville S. Tyrrell: Good morning, colleagues, as well.

Mr. Speaker, I rise to ask this House to send condolences to the family of the late Alan Leigh, a former schoolteacher and principal. Mr. Leigh was one of my constituents. And he seemed to have taken a lot of interest in my career from way back, because when I canvassed him, we always had some good chats. He always had kind remarks for me. And I found him to be a very, very social person. I associate my colleague, Kim Swan.

Mr. Speaker, the last time I canvassed him was about three weeks ago, or canvassed his house, anyway, because while I knocked on the door, the wife, Mrs. Jennifer Leigh, came to the door. And she says, *Mr. Tyrrell, as much as Alan loved you, he's not going to come to the door today because he's watching the Rugby International 7s. But he wishes you well.*

[Laughter]

Mr. Neville S. Tyrrell: But if condolences could be sent, Mr. Speaker. Thank you very much.

The Speaker: Thank you.

Does any other Member . . .

I recognise the Honourable Member from constituency 28. Honourable Member, you have the floor.

Mr. Dennis Lister III: Good morning, Mr. Speaker.

The Speaker: Good morning.

Mr. Dennis Lister III: I would just like to pass congratulations on to the WindReach facility up in Warwick, which is my constituency of Warwick West. I had the privilege on Wednesday, along with the MP from constituency 4, of attending the renaming of one of their halls. It was renamed the Sandy Mitchell Activity Centre in honour of one of Bermuda's Paralympians. Also, I would like to associate the Minister of Education, who was unable to attend. And he put me on the spot; I had to speak on his behalf. But, Mr. Speaker, yes, I would like to send congratulations. Thank you.

The Speaker: Thank you.

Does any other Member wish to speak?

No other Member wishes to speak.

ANNOUNCEMENT BY THE SPEAKER

HOUSE VISITORS

The Speaker: Before we move on, I would just like to acknowledge that, in the Gallery, Senator Caesar is in the Gallery this morning. And earlier, we had former Member of Parliament Pettingill in the Gallery, as well.

Welcome, Senator. Nice to have you here this morning.

[Desk thumping]

The Speaker: Good.

We now move on.

MATTERS OF PRIVILEGE

The Speaker: There are none.

PERSONAL EXPLANATIONS

The Speaker: I am going to seek the indulgence of the House. The matter that was to be dealt with under Personal Explanations, I would like to take it up after we come from lunch.

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: There are none.

ORDERS OF THE DAY

The Speaker: Orders of the Day. The first Order of today is the Second Reading of the Customs Tariff Amendment Act 2018, in the name of the Minister of Finance.

Minister/Premier, lead on.

Hon. E. David Burt: Yes, Mr. Speaker, I can do that.

The Speaker: Go ahead.

Hon. E. David Burt: Good morning, Mr. Speaker.

Mr. Speaker, before I begin my remarks today, I would just like to note that there is an error in the printing of the Bill. And it is the Explanatory Memorandum. The short title says "2017" on the top, as opposed to "2018." And although the Explanatory Memorandum is not actually part of the Bill and it is not something that can be amended, I just wanted to indicate that this is the case.

The Speaker: Thank you for the explanation.

Continue on now.

Hon. E. David Burt: Thank you, Mr. Speaker.

Mr. Speaker, Honourable Members are now requested to give consideration to the Bill entitled the Customs Tariff Act 2018. And I move that the Bill be now read for the second time.

The Speaker: Continue on.

BILL

SECOND READING

CUSTOMS TARIFF AMENDMENT ACT 2018

Hon. E. David Burt: Thank you very much, Mr. Speaker.

Mr. Speaker, the Bill proceeds to amend the Customs Tariff Act 1970 (the principal Act) with measures that include lower import duty rates for healthy foods, household linens, footwear, and clocks; increased import duty rates for wines and tobacco; and new and reformed end-use and temporary impor-

tation reliefs. These measures affect the First, Fifth, and Sixth Schedules to the principal Act.

Mr. Speaker, I will now comment in further detail on the various measures in the Bill. I begin with those—

[Timer beeps]

The Speaker: That is not for you; you can continue.

Hon. E. David Burt: Thank you.

I begin with those amendments that are directed at lowering duty rates. These amendments affect the First Schedule to the principal Act. In this Bill, the Government has, as promised in the Budget Statement, reduced import duty from 5.0 per cent to 0.0 per cent for eggs, potatoes, cauliflower, broccoli, carrots, turnips, oranges, and apples.

[Desk thumping]

Hon. E. David Burt: Thank you, Minister of Health. The Minister of Health, just as she was with the Budget Statement, Mr. Speaker, is very supportive of this particular provision.

The duty rate calculation is intended to encourage healthy eating choices and to offset the expected increase in customs duty from the sugar tax when it is brought into effect. I should explain that, the sugar tax itself does not form part of this Bill. As the Honourable Minister of Health indicated earlier, it will come at a later point in time, after all of the details of the consultation have been reviewed and the Government decides its way forward.

Mr. Speaker, in the Budget Statement in support of the Estimates of Revenue and Expenditure this year, I mentioned that the yield from customs duty is estimated at $235 million, or 21.6 per cent of total Government revenues. A part of that anticipated customs duty yield will come from the introduction of the sugar tax. The sugar tax . . . as Government has indicated in the Budget Statement, a portion of the revenues from the sugar tax will be earmarked for educational programming to improve health outcomes.

Mr. Speaker, in the Budget Statement, I also promised that Government will be lowering duty rate on textiles and shoes in order to reduce the cost of living. Accordingly, the duty rate for household linens has been lowered from 25 per cent to 15 per cent, and the duty rate for footwear has been lowered from 12.5 per cent to 6.5 per cent. As a further measure, the duty rate on clocks has been reduced, from 25 per cent to 15 per cent.

I now turn to those measures that raise duty rates. These measures also affect the First Schedule of the principal Act. In the Budget Statement, the Government promised that the Ministry of Finance, in consultation with the Ministry of Health, will further increase the duty on tobacco to reduce the inconsistency between duty rates on cigarettes and tobacco. To this end, the Bill amends the duty rate on tobacco products with a change from an *ad valorem* rate, which means "at the value," of 35 per cent, to a specific rate of $300 per kilogram. This represents a substantial duty rate hike, but such is the gap in the relevant duty rates that this step must be taken to achieve better parity with the duty rate for cigarettes.

Finally, Mr. Speaker, to the chagrin of many, the duty on wines will be raised by 30 cents per litre in April 2018, to achieve additional customs revenue.

Some Hon. Members: Oh. Oh.

An Hon. Member: Shame on you!

Hon. E. David Burt: Mr. Speaker, I now progress to the measures in the Bill that concern import duty reliefs. The Bill repeals a number of Fifth Schedule duty reliefs that relate to local manufacturing. A low, concessionary 5 per cent duty rate for goods for local commercial manufacturing is currently provided by Customs Procedure Code [CPC] 4229. Local commercial manufacturers that formerly benefited from the reliefs being repealed are to be approved as eligible beneficiaries of CPC 4229.

Honourable Members will recall that in the Budget Statement I reported that, in 2017, manufacturing saw 11 jobs disappear. The Ministry wishes to reverse this trend by providing duty relief to appropriate manufacturing undertakings carried on in Bermuda, especially where the undertaking is likely to create new jobs and be a benefit to the general economy of Bermuda. Mr. Speaker, under CPC 4229, a local manufacturer of goods is able to apply for their manufacturing undertaking to be designated, by notice in the *Gazette,* as an approved business and benefit from the concessionary 5 per cent duty rate.

Mr. Speaker, the Bill proposes to amend two energy-related end-use reliefs, CPC [4130], electric generating equipment, and CPC 4227, batteries for electric vehicles. With CPC 4130, it is amended to allow duty relief for utility-scale battery energy storage systems and parts. Such a system is required for redundancy purposes at the BELCO plant and will also be required for any new generating plants which come under the Government's Revised Energy Policy. The extension of this relief is intended to help further minimise the cost of electricity production by BELCO and also will help minimise the cost of any future electricity production by any alternative producers of energy.

CPC 4227, batteries for electric vehicles, is amended to include all kinds of batteries for electric vehicles.

The Speaker: Thank you.

Hon. E. David Burt: Duty relief under CPC 4227 is currently restricted to lithium ion batteries only. This

measure is intended to support the use of more environmentally friendly means of transportation in Bermuda.

Mr. Speaker, in the Budget Statement, the Government promised that duty relief will be provided to sporting clubs that have youth programmes. Accordingly, the Bill proposes to amend CPC 4140, goods for youth organisations and the St. John's Ambulance Brigade, so that approved organisations, including sporting clubs that have youth programmes, will enjoy full duty relief on uniforms and equipment purchased by these clubs. The Minister of Social Development and Sports, Mr. Speaker, is clearly in support of that one.

The Speaker: Good.

Hon. E. David Burt: Mr. Speaker, the Bill proposes to reform CPC 4169, medical equipment and supplies, with proper end-use provision and to broaden its scope to include positive-airway pressure machines, diabetic supplies, renal dialysis equipment, approved food supplements, and parts and accessories of medical equipment. All of the duty-free goods listed in CPC 4169 are intended to reduce the cost of compensating for physical disability and treating or monitoring chronic medical conditions.

In the Budget Statement, this Government acknowledged the challenges that persons with disabilities in Bermuda face and that, as a society, we have a long way to go in ensuring that they can enjoy a decent quality of life. The Bill assists in this regard by proposing the introduction of a new end-use relief, CPC 4230, with a 35 per cent concessionary rate of duty for specialised vehicles for the physically disabled. This concessionary rate represents a significant reduction in duty exposure. As Honourable Members will be aware, the normal duty rate for passenger motor cars is 75 per cent on the first $10,000 of value and 150 per cent on value in excess of $10,000.

Mr. Speaker, in the Budget Statement, the Government stated its intention to invest to stimulate the economy and create economic growth, and promised increased support for the Bermuda Economic Development Corporation, the Bermuda Business Development Agency, and the Bermuda Tourism Authority. As a further measure to support these vital components of Bermuda's engine of growth, a new end-use relief, CPC 4231, is proposed for goods for sporting events approved by the Bermuda Tourism Authority. In addition, enhanced temporary importation relief is provided for goods certified by the Bermuda Tourism Authority or the Business Development Agency for promoting or publicising Bermuda abroad. Replacement CPC 5007. Further, streamlined temporary importation relief is provided for sporting events approved by the BTA.

Mr. Speaker, the Bill proposes to introduce a new temporary importation relief, CPC 5033, for goods for the NASA Space Flight Temporary Mobile Tracking Station in Bermuda. This new duty relief is required in fulfilment of Bermuda's obligation under the agreement between NASA and the Government of Bermuda for a space flight temporary mobile tracking station to provide duty relief for goods for the NASA Research Range Services Programme. Research range services are provided to NASA from Cooper's Island and include tracking, telemetry, meteorological, optical, command and control, and range operation services.

Finally, Mr. Speaker, the Bill contains a number of housekeeping measures and makes certain consequential amendments. These further measures of the Bill variously clarify the obligation to pay duty on diversion, repeal spent end-use relief, and make consequential repeals of specified reliefs. I will comment further in detail on these changes and all other amendments of the Bill in Committee, and I invite other Members for their comments and feedback. Thank you, Mr. Speaker.

The Speaker: Thank you, Minister.

Does any other Member wish to speak?

I recognise the Honourable Leader of the Opposition. Honourable Member, you have the floor.

Hon. Jeanne J. Atherden: Thank you, Mr. Speaker.

Mr. Speaker, first I want to say that I am mindful of the fact that, because we are going into the new Budget year on the 1st of April, it is important that the Finance Minister get many of these things sorted out so that they can take effect. And I must start off with putting a previous hat on to say that I am so pleased to see that we are finally starting to put some of the duty relief in for those categories related to health, as it talks to people who have to bring in equipment or appliances so that they can actually get around, so that we can make them more mobile. Because this is something that has been an issue, and the fact that we are starting to recognise that if you can help people being able to go around, it makes them not only being able to be more independent, then it eliminates and reduces their dependency on other people, which is so important as it relates to our keeping people as contributing members of society.

And if I can just go through and say that I do not believe that there was anything that, from an Opposition perspective, we were not supporting. I think we just wanted to clarify one or two items. We understand that, by putting in some of the new categories with respect to goods so that it is identified so that the Bermuda Tourism Authority is able to determine which other categories of sporting events would be identified, that effectively takes us away from when we started, which was to have the America's Cup as an identified event that had all sorts of reliefs attached to it. And it starts to recognise that we anticipate, going forward, that there will be new sporting events that the

Tourism Authority will embrace, and the fact that they will have the ability to be able to designate these events and so that they can have the customs relief.

I also, if you look at especially when you start to talk about the vehicles, the vehicles that would have the duty relief with respect to those persons who are, as I say, disabled and who need vehicles to be able to get around, if you stop and think that a 75 per cent on the first $10,000 and 100 per cent on the amount over that amount, you can start to realise that duty becomes a significant, significant amount that these persons have to pay. And it is not just individuals. It is also, you have the rest homes and the nursing homes, who are also trying to make sure that their members have the ability to be able to get out and get around. So I know that, when you have a concession, you are obviously giving up some revenues. But we know that it is important for us to be able to have these members to be more independent.

With respect to the youth programmes and the duty relief for the youth programmes. I know that this is the Government responding to something that they said that they would do. And we are always supportive of youth programmes, being able to encourage youth to be involved, and especially when it starts to talk about equipment and uniforms and other things, that this is something that the Government is effectively living up to one of its promises.

The other thing . . . and as I say, there is nothing in here that creates any sort of concern. We, obviously, are supporting it. We know that, in terms of tobacco and wines, it has gotten to the stage where I think most people, and I am a person who like a glass of wine. And even though they say women should not have more than two glasses of wine a day, now it is going down and down and down. But I think we all have to recognise that, while increasing the duty, and we now call it a "sin tax," increasing the duty on this does not sort of . . . we should not get away from trying to encourage people to understand that their health is important. So that they should really understand the impact of these things on their health, because you can run into a situation where people can afford to buy these quote/unquote "sins"—and tobacco goes into it—and then, afterwards, when they develop the illnesses that result from that, then the system ends up paying for it.

Because the bottom line is, the individual pays the tax, but when they have the illnesses, then the system turns around and everybody pays for it. So, I just want to remind ourselves that, let us not get into saying that, let us increase the revenues without saying, *What are going to do to make people understand that you need to be healthier?* And so pay as much attention to getting the money, because what you give away, you actually get taken back from you double and triple in terms of what society has to pay.

And I am not going to go through everything, because I think the Minister gave us a very comprehensive indication of what was there. I think the most important thing, and I just say this, and I say this to the Minister, and I would just hope that, as we progress, there will be more opportunities for those persons in the Customs Department to be able to look at things which might not be covered right now because we just did not know that it is something that is important. It has taken quite a while for things like the walking canes and the cylinders and all sorts of that, to get these to a stage where the relief has actually been put there.

And, sometimes, it takes a lot of discussion as to why it should have the relief. And maybe we have to try and figure a way where there is an opportunity to acknowledge the fact that a case has been made, and it makes sense to actually make the exception that can be picked up sooner than having to wait until, sometimes, years. But at least it would be nice to know that, if the exception has been proposed and justified, then at a minimum it would take effect the next Budget year.

And I think that those were the items that I wanted to . . . in terms of the manufacturing, I applaud the fact that the Government is trying to get more people involved in manufacturing. And it is interesting, because there are two sides of that manufacturing. One is the fact that we are turning and we are looking at new businesses and trying to make sure that people bring new jobs and they end up encouraging people to get there. But I guess, if you flip it over and you stop and look at that tobacco change that we actually are making, here it was—here it was a manufacturing entity that ended up being encouraged. But in the end, we found that we created a problem in terms of people being able to manufacture something that was in the "sin" category, and actually, they had so much of a benefit that we were actually losing the comparison to the importation of the tobacco products.

So, I think we have to . . . as people start to manufacture things which are actually imported, and there is a duty on the import, we have to make sure that we balance off, you know, the ability to tax them at a certain amount, but making sure that if there is the opportunity to collect the amount of revenue that you should, that we do so.

So, Mr. Speaker, I think those were the items that I wanted to review, and I look forward to the Minister dealing with the individual clauses. Thank you.

The Speaker: Thank you, Honourable Member.

Does any other Honourable Member wish to speak?

No other Honourable Member.

Minister, you have the floor.

Hon. E. David Burt: Thank you very much, Mr. Speaker.

And, Mr. Speaker, I note the comments of the Opposition Leader and Shadow Minister of Finance,

and will be happy to discuss any specific topics as we go into Committee. So, Mr. Speaker, I move that the Bill be committed.

The Speaker: Thank you.

Deputy.

House in Committee at 12:23 pm

[Hon. Derrick V. Burgess, Sr., Chairman]

COMMITTEE ON BILL

CUSTOMS TARIFF AMENDMENT ACT 2018

The Chairman: Honourable Members, we are now in Committee of the whole House for further consideration of the Bill entitled the Customs Tariff Amendment Act 2018.

Minister, you have the floor. Minister and Premier.

Hon. E. David Burt: Thank you very much, Mr. Chairman.

Mr. Chairman, I would like to move clauses 1, 2, and 3.

The Chairman: Are there any objections to moving clauses 1, 2, and 3?

There appear to be none.

Continue, Premier.

Hon. E. David Burt: Thank you very much, Mr. Chairman.

Clause 1 is self-explanatory.

Clause 2 amends section 13(1)(b) of the principal Act by deleting words, so that customs duty on diversion is payable so long as the relevant goods are classifiable in the tariff codes.

Clause 3 provides that the First Schedule to the principal Act, (Bermuda nomenclature and import duties) is repealed and replaced by the contents of the Schedule to this Act. The First Schedule will be published on the Bermuda Government Portal at www.gov.bm / schedules-customs-tariff-act-1970. This year's amendments include a reduction to 0.0 per cent duty to certain fresh fruits and vegetables, increased duty on certain wine and tobacco products, and reduced duty on certain linen products, shoes, and clocks.

The Chairman: Any further speakers?

[Pause]

The Chairman: There appear to be none.

Hon. E. David Burt: Thank you very much, Mr. Chairman.

Mr. Chairman, I move that clauses 1, 2, and 3 be approved.

The Chairman: Are there any objections to approving clauses 1, 2, and 3?

There appear to be none.

Approved.

[Motion carried: Clauses 1 through 3 passed.]

Hon. E. David Burt: Thank you, Mr. Chairman.

Mr. Chairman, I would like to move clauses 4, 5, and 6.

The Chairman: Are there any objections to moving clauses 4, 5, and 6?

There appear to be none.

Continue, Minister.

Hon. E. David Burt: Thank you, Mr. Chairman.

Mr. Chairman, clause 4 amends the Fifth Schedule of the principal Act to repeal specified CPC codes which will be incorporated under CPC 4229 (goods for local commercial manufacturing); to amend CPC 4130 (electric generating equipment); to revise CPC 4140 (goods for youth organisations and St. John's Ambulance Brigade) so that approved organisations will be gazetted by the Minister; to replace and broaden the scope of CPC 4169 (medical appliances and equipment that are designed to compensate for physical disability or medical condition); and to repeal CPC 4163 (renal dialysis) in consequence; to amend CPC 4220 (passenger motor cars, licensed as trucks) to include heavy trucks; to repeal CPC 4223 (goods for the 35th America's Cup) which is spent; to amend CPC 4227 (batteries for electric vehicles); and to insert a new CPC 4230 (specialised vehicles for the physically disabled); and new CPC 4231 (sporting events approved by the Bermuda Tourism Authority).

Clause 5 amends the Sixth Schedule to the principal Act (temporary importation relief) to repeal CPC 5006 (vessels—racing or exhibition) as this relief will be covered by other CPCs; to broaden the scope of CPC 5007 (goods for promoting or publicising Bermuda abroad); to reform CPC 5022 (sporting events approved by the Bermuda Tourism Authority); finally, it will insert a new CPC 5033 (goods for NASA Space Flight Temporary Mobile Tracking Station).

Clause 6, Mr. Chairman, provides for the commencement on the 1st of April 2018, except for clause 4(2), which will come into operation on a date or dates appointed by the Minister of Finance.

The Chairman: Any further speakers?

The Chair recognises the Honourable Member Grant Gibbons.

Continue.

Hon. Dr. E. Grant Gibbons: Thank you, Mr. Chairman.

Mr. Chairman, I have some questions about clause 4, which are amendments to the Fifth Schedule. Towards the top of page 2, it is the CPC 4130, electric generating equipment. And in the descriptions for qualifying goods, we are inserting the words "Utility scale battery energy storage systems and parts."

Mr. Chairman, I do not have a problem with this; in fact, I think it is, in many respects, a good thing. We have certainly been onto BELCO for a number of years now to effectively start to put in battery storage as a way to essentially buffer the grid, particularly with new renewables coming on, which can be volatile in terms of the input that they provide. They can be up and down in terms of the energy.

The other issue is, for many years BELCO has used what is known as "spinning reserve" to regulate demand. What that means is that about 15 megawatts of generating equipment is actually turning. It is using fuel, but it is not generating any electricity. But it has to be going in order to be able to meet demand that may come as people are turning on air-conditioners and whatever else. So, I think batteries are now coming down [in cost] to a point where they are economically feasible. And I think that is a way to get around the issues of spinning reserve; so all positive there.

The question I actually have for Minister is, it refers to utility scale battery energy storage system and parts. Could he give us a better understanding of what "utility scale" means? And I am asking that, because the Electricity Act does not deal with necessarily utility scale. It deals with things like bulk generation and defines it on that basis.

So, for example, a week or so ago, and I know this is probably interesting for Members of the House (I am being facetious here), GE came out with a storage platform called the Reservoir. It is a battery system. It is 20 feet long. It fits into a container, and it provides 1 megawatt. So, the issue here is, is that utility scale? And could someone else besides the utility use this, for example, if they had a commercial solar installation and wanted to essentially use it to buffer or store the energy coming from their system, to use at night or for other reasons?

So, the question is, what does utility scale mean? What is the megawatt capacity that the Minister (or actually I should say the amendment) is referring to here?

The second question I have is . . . and this is not utility scale, but more of a question, maybe a suggestion. There are a lot of new battery systems coming out. I think, Mr. Chairman, you have probably seen discussion of the Tesla Powerwall, where you can put it in your home. And if you have got sort of a solar installation on your roof you can use it to charge up during the day and then draw from that at night so you do not have to draw from the grid.

So the question is: Is the Government also looking at smaller scale battery storage energy systems? And would those be available at a 0.0 per cent duty, as well? As I said, there is the Tesla Powerwall. There's a thing called Brightbox. There are a number of others that are coming out right now because of the decrease in the cost of battery storage systems, which are obviously good for everybody. Thank you, Mr. Chairman.

The Speaker: Mr. Premier, do you want to adjourn for lunch?

Hon. E. David Burt: Mr. Chairman, I am guided. But would you like me to at least answer his question to see if we can report the Bill back to the House? Because I think we might be done.

Oh, you have got more? Never mind.

Mr. Chairman, I move that we rise for lunch.

The Chairman: The House will resume at two o'clock.

Proceedings suspended at 12:32 pm

Proceedings resumed at 2:03 pm

[Hon. Derrick V. Burgess, Sr., Chairman]

COMMITTEE ON BILL

CUSTOMS TARIFF AMENDMENT ACT 2018

[Continuation thereof]

The Chairman: Good afternoon, Members. We are back after lunch with the resumption of the Customs Tariff Amendment Act 2018.

Premier, the Honourable David Burt, you have the floor.

Hon. E. David Burt: Thank you very much, Mr. Chairman.

Mr. Chairman, there was a question that was asked by the Honourable Member from constituency [22] regarding what "utility scale" means. Utility scale means with an output exceeding 2 megawatts.

The Chairman: Any further speakers?

The Chair recognises the Honourable Grant Gibbons.

Hon. Dr. E. Grant Gibbons: Thank you, Mr. Chairman, and I appreciate the answer. And I think that helps to clarify not only what utility BELCO may do, but what others may do in terms of the size of batteries that can be imported under this particular heading.

The Honourable Member may also know that before lunch I asked the question as to whether Government would be considering duty provisions or exemptions for smaller scale batteries. And I gave the

example, Mr. Chairman, as you may be aware of the Tesla Powerwall. They put them in cars but they also put them in homes so that you can use them to store energy from. It could be wind power, it could be solar panels on the roof, and it is a way to avoid using generators—clean, renewable, and all the rest of it.

In addition to Tesla there is another one out there called Brightbox. There may be others as well, but these are much smaller than the 2 megawatt versions we are talking about now. And has the Government been approached, are they giving some thought to smaller batteries that could be used on a commercial or residential basis because this would help to advance the use of renewables as well?

The Chairman: Are you finished?

Hon. Dr. E. Grant Gibbons: Yes, I am. Thank you.

Mr. Premier, you have the floor.

Hon. E. David Burt: Thank you, Mr. Chairman.

Mr. Chairman, I heard persons around me asking the Honourable Member if he has interests to declare. That much being said, at this current point in time there is no plan to provide additional duty relief for battery technology that is not used in connection with renewable energy. But as the Honourable Minister who has responsibility for Energy has stated, they are looking at Energy policy and looking at an updating of the Energy Green Paper.

So I am quite certain that the Honourable Member's considerations may be taken into account. But at this point in time there is no plan for that to happen.

The Chairman: Any further speakers?

The Chair recognises the Honourable Grant Gibbons.

Hon. Dr. E. Grant Gibbons: Thank you, Mr. Chairman. I have another question with respect to . . . on page 3. It is the batteries for electric vehicles. And to make everybody happy I will declare that my family has an interest in automotive.

[Inaudible interjections and laughter]

Hon. Dr. E. Grant Gibbons: Well, we have an interest in a number of things, so . . .

Mr. Chairman, the question I have there is . . . I am waiting for Mr. De Silva to get up and declare his interest. The question I have there is . . . and more of a confirmation, Mr. Chairman, when it refers to batteries for electric vehicles—and I am not involved on a first-hand basis—but does it also mean electric vehicles which are hybrids? Because some are pure electric and some are hybrids as well. That may just be a confirmation because that may already refer to electrics and hybrids that may also have gas or diesel.

While I am on my feet, Mr. Chairman, on page 6, and it is the section . . . clause 5 here, the Sixth Schedule, and on clause 6 it is the CPC Code with respect to the NASA Space Flight Temporary Mobile Tracking Station. Before lunch the Honourable Member gave an explanation that we have had a NASA Temporary Mobile Tracking Station there for a number of years and this basically allows them to bring in the mobile station or parts, I guess, thereto duty-free.

The question I have for the Honourable Member is . . . as he will be aware, there are two other space agencies which have facilities here. One is SpaceX which came in a couple of years and used Bermuda as one of its telemetry tracking and command and control centres. Has the Honourable Member been asked or has the Minister of Finance been asked for duty relief for them?

And the other one, which is probably less private sector and more government related, of course, is the European Space Agency, which also does tracking and telemetry here. So this is clearly for NASA, [but] has there been a request or are there provisions likely to come for the other two?

Thank you, Mr. Chairman.

The Chairman: Honourable Premier, do you want to?

Hon. E. David Burt: Thank you, Mr. Chairman.

Mr. Chairman, at this time there have not been any such requests to my knowledge. However, as the Honourable Member knows, it is not uncommon to have Customs Tariff Amendment number 2, number 3 and number 4 throughout the year as different occasions arise, and those are other items that may be able to be taken under advisement.

The Chairman: Any further speakers?

There appear to be none.

Do you want to continue, Mr. Premier?

Hon. E. David Burt: Thank you very much, Mr. Chairman.

Before I move the clauses, just a note regarding SpaceX and the European Space Agency, both can use CPC 5013 visiting technicians and tools.

That much being said, Mr. Chairman, I would like to move clauses 4, 5 and 6.

The Chairman: It has been moved that clauses 4, 5 and 6 be approved.

Any objections?

There appear to be none.

Approved.

[Motion carried: Clauses 4, 5 and 6 passed.]

Hon. E. David Burt: Thank you very much, Mr. Chairman.

I move that the Schedules be approved.

The Chairman: It has been moved that the Schedules be approved.

Any objections to that?

There appear to be none.

Agreed.

[Motion carried: The Schedules passed.]

Hon. E. David Burt: Thank you very much.

I move that the preamble be approved.

The Chairman: It has been moved that the preamble be approved.

Are there any objections to that?

There appear to be none.

Approved.

Hon. E. David Burt: All right, thank you very much, Mr. Chairman.

I move that the Bill be reported to the House as printed.

The Chairman: It has been moved that the Bill be reported to the House as printed.

Are there any objections to that motion?

There appear to be none.

The Bill will be reported to the House as printed.

[Motion carried: The Customs Tariff Amendment Act 2018 was considered by a Committee of the whole House and passed without amendment.]

House resumed at 2:10 pm

[Hon. Dennis P. Lister, Jr., Speaker, in the Chair]

REPORT OF COMMITTEE

CUSTOMS TARIFF AMENDMENT ACT 2018

The Speaker: Good afternoon, Members.

Are there any objections to the second reading of the Customs Tariff Amendment Act 2018 being reported to the House?

There are no objections.

So moved.

We now move on to Order [No. 2] on the Order Paper, which is the consideration of the Supplementary Estimate (No. 2) for Financial Year 2016/17 in the name of the Minister of Finance.

Minister?

BILL

SECOND READING

SUPPLEMENTARY ESTIMATE (NO. 2) FOR THE FINANCIAL YEAR 2016/17

Hon. E. David Burt: Thank you, Mr. Speaker.

Mr. Speaker, in accordance with Standing Orders 43(4) and (5) I move that Supplementary Estimate (No. 2) for the Financial Year 2016/17 be approved.

The Speaker: Continue, Minister.

Hon. E. David Burt: Thank you very much, Mr. Speaker.

Mr. Speaker, and forgive me . . . I have done this before but I am a little bit lost. So I am doing it now before I go into Committee?

The Speaker: Yes.

Hon. E. David Burt: Yes.

The Speaker: We can actually take this right through to Committee of Supply.

Hon. E. David Burt: That is what I am saying. So do I now read the introduction and then go?

The Speaker: Read the introduction and then I will invite the Deputy Speaker to come to the Chair.

Hon. E. David Burt: Thank you very much, Mr. Speaker.

Mr. Speaker, this Schedule identifies two items totalling $4,302,839 to be included in Supplementary Estimate (No. 2) for 2016/17, made up of $4,230,840 on current account and $71,999 on capital account.

Honourable Members will recall that the criteria for determining debatable supplementary estimates requires all items on current account to be debated if the total current account spend of a ministry shows an increase of 10 per cent, or $250,000, when compared to the original estimate. All capital items are debatable.

Supplementary Estimate for 2016/17 (No. 2) is directly related to one current account item—$4.2 million for the Ministry of Public Works to cover legal settlement costs. On the capital account a minor amount of $72,000 was due to a typographical error in the amount approved in the 2016/17 Supplementary Estimate (No. 1) for the Corporation of St. George's to refurbish their dock. The amount approved was $1,408,225 and this should have been $1,480,255, thus the difference of $72,000 is required to be approved with this Supplementary Estimate (No. 2).

Total capital account spending for 2016/17 was $76.7 million. Applying the criteria that I just described, both items on the current account and capital account are debatable. I therefore move the approval

of the items as follows: Current Account (No. 1) debatable, and Capital Account (No. 2) debatable.

The Speaker: Move us into Committee.

Hon. E. David Burt: Okay. I move that the House resolve itself into Committee of Supply for further consideration of the supplementary estimates.

The Speaker: Thank you.
Deputy?

[Hon. Derrick V. Burgess, Sr., Chairman]

COMMITTEE OF SUPPLY

SUPPLEMENTARY ESTIMATE (NO. 2) FOR THE FINANCIAL YEAR 2016/17

The Chairman: Honourable Members, we are now in Committee of Supply for further consideration of the Supplementary Estimate (No. 2) for financial year 2016/17.
Premier, you have the floor.

[Inaudible interjection]

The Chairman: I am sorry. The Minister for Works and Engineering, the Honourable Lt. Col. Burch.

Lt. Col. Hon. David A. Burch: Thank you, Mr. Chairman.
The requirement for supplementary estimates, more often than not, indicates unforeseen challenges a Ministry or department of government has to meet in any given year.
The Ministry of Public Works has one department, the Ministry Headquarters, which is included in Supplementary Estimate (No. 2) for the financial year 2016/17 in the amount of $4,230,840.
Mr. Chairman, the supplementary funding for the Ministry of Public Works was required for payments related to a legal case in which the Ministry of Public Works was the defendant and the Chief Justice subsequently made a ruling in favour of the plaintiff. The judgment in favour of the plaintiff was dated 19 February 2016 for the sum of $5,413,386.50. The difference between the judgment amount and the supplementary, $1,182,546.50, is the result of savings within the Ministry's 2016/17 budget that has reduced the supplementary requirement.
Mr. Chairman, therefore, the 2016/17 Current Account Supplementary Estimate sought for the Ministry of Public Works is $4,230,840. I move that it be approved.

The Chairman: Any objections . . . any further speakers?

Hon. Dr. E. Grant Gibbons: Thank you, Mr. Chairman.
Mr. Chairman, I wonder if the Honourable Minister could give a little bit more detail on this particular legal case.
We are a little lighter than normal on the benches here and I guess I am aware of a mould case that goes back quite a few years, probably to the former Progressive Labour Party Administration. And I think it took a while to wind its way through the courts.
Could the Honourable Member confirm that this is essentially a settlement . . . or actually it sounds like a judgment with a plaintiff who came and requested, obviously, compensation for medical and other injuries relating to mould. If the Honourable Member could say where that mould case was, I have a sense that it might have been in Education, but this is a distant memory at this particular point. Perhaps a little bit more detail on what it is without obviously, shall we say, divulging personal information about the individual.
Thank you, Mr. Chairman.

The Chairman: Any further speakers?
Minister, do you want to reply?

Lt. Col. Hon. David A. Burch: Mr. Chairman, you noted the date of this, right, Mr. Chairman?

The Chairman: Yes.

Lt. Col. Hon. David A. Burch: I am continually asking myself . . . anyway, maybe I should seek the help of the Minister of Health in terms of these . . . medical remedy for amnesia.
This is as a result of a ruling during the time of the former Government, Mr. Chairman, in relation to a policeman who was subjected to chronic health issues as a result of his working environment in various police stations in the country. It was well reported in the daily newspaper and the documentation . . . all the documentation that I have is dated in the year 2016, Mr. Chairman. Thank you.

The Chairman: Any further speakers?
The Chair recognises the Honourable Pat Gordon-Pamplin.

Mrs. Patricia J. Gordon-Pamplin: Thank you, Mr. Chairman.
Mr. Chairman, I thank the Minister for clarifying that this was in respect of a claim that was made by a police officer and it wound its way through the courts. That claim was initiated well before the OBA administration, just to put that on the record. And the settlement was made during the currency of the OBA Administration. But the $5.4 million was a legal settlement that, according to my understanding, was actually . . . liability was admitted under a previous PLP

administration and that was the impetus for the situation going to court.

My question now, Mr. Chairman, is that with that settlement having been made as a result of the individual having been harmed, whether any likely residual challenges that would have come out of that mould situation that caused the police officer to be injured, whether that may have been rectified subsequent to this. Only because it is important to know whether . . . because I think when my honourable colleague stood to speak and was asking questions, we know that there were a couple of personal injury challenges that had occurred over the course of the last little while.

This one in particular occurred in the early . . . or, sorry, the mid-2000s, the first decade. And it is that police officer who suffered injury under a prior administration. So I just want to make sure that we have put together the necessary remedial action that would ensure that this level of compensation is not needed in future because we have got a sufficient state within our public buildings that would preclude this matter from happening again.

Thank you, Mr. Chairman.

The Chairman: Any further speakers?

Minister, do you want to reply?

Lt. Col. Hon. David A. Burch: Mr. Chairman, I guess what I can say is that is another matter that came before the previous Cabinet which that former Minister does not know anything about.

The fact of the matter is, Mr. Chairman, that the mould situation probably precluded any PLP Government too. And the remedial steps that have been taken to avoid this occurring again is the fact that we now have a Dame Lois Browne-Evans Building that houses the new Police Station, and the former Police Station has not been occupied since.

Thank you, Mr. Chairman.

The Chairman: Any further speakers?

The Chair recognises the Honourable Pat Gordon-Pamplin.

Mrs. Patricia J. Gordon-Pamplin: Yes. I think the Honourable Member may be mistaken in terms of the former police building that was no longer occupied. This situation, as I recall, was in Somerset. It was not in the Hamilton Police Station building.

This situation and the mould and stuff that was relating to this case, that precipitated the claim, was as a result of conditions that existed in the Somerset Police Station. So, while the Minister has, perhaps, a different recollection, I just think it was important to state that for the record. Thank you.

The Chairman: Any further speakers?

Minister?

Lt. Col. Hon. David A. Burch: Mr. Chairman, so the question was for what purpose?

Anyway, Mr. Chairman, I move that the Supplementary be approved.

The Chairman: Head . . . supplementary 36 . . . Head 36 . . . [item] 1, Head 36 . . . any objections to that head being approved?

No objections.

Approved.

[Motion carried: Head 36, Ministry of Public Works, passed.]

The Chairman: [Item] 2, Tourism and Transport Headquarters. I guess it is you . . . well, it is Head 65—

The Deputy Clerk: Corporation of St. George's grant.

The Chairman: Corporation of St. George's grant.

Hon. Walton Brown: Thank you, Mr. Chairman.

I move that Head 65 be approved. It is a very minor adjustment based on an error in the original budget, and we are seeking approval for the $72,000.

The Chairman: Any objection to Head 65 being approved?

The Honourable Member Pat Gordon-Pamplin.

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

Mr. Chairman, the Honourable Member indicated that there was an error. An error in what?

The Honourable Member said that there was an error, the amount is not particularly significant, but he said an error. An error in what? I would like it to be a little bit clearer.

The Chairman: Minister?

Hon. Walton Brown: I would be happy to, Mr. Chairman.

The Honourable Member unfortunately was not here when the substantive Minister provided the explanation. There was a typographical error in the budget under the previous Government, and all we are doing is making the appropriate amendment and correction.

The Chairman: Any further speakers?

Any objection to Head 65 being approved?

There appear to be none.

Approved.

[Motion carried: Head 65, Ministry of Tourism and Transport Headquarters, passed.]

The Chairman: Mr. Premier?

Hon. E. David Burt: Thank you very much, Mr. Chairman.

Mr. Chairman, I move the adoption of the Supplementary Estimate (No. 2) for the year 2016/17, as printed, be reported to the House.

The Chairman: Are there any objections to the Supplementary Estimate (No. 2) [for 2016/17] being approved?

There appear to be none.

Approved.

The Bill—the Supplementary—will be reported to the House.

[Gavel]

[Motion carried: Supplementary Estimate (No. 2) for the financial year 2016/17 was considered by a Committee of the whole House and passed without amendment.]

House resumed at 2:24 pm

[Hon. Dennis P. Lister, Jr., Speaker, in the Chair]

REPORT OF COMMITTEE

SUPPLEMENTARY ESTIMATE (NO. 2) FOR THE FINANCIAL YEAR 2016/17

The Speaker: Good afternoon, Members.

Is there any objection to the consideration of Supplementary Estimate (No. 2) for financial year 2016/17 being reported to the House?

No objections.

So moved.

We now move onto [Order] No. 3 on the Order Paper, which is the consideration of the Supplementary Estimate (No. 2) for the financial year 2017/18 and, again, it is in the name of the Minister of Finance.

Minister, similar proceedings.

BILL

SECOND READING

SUPPLEMENTARY ESTIMATE (NO. 2) FOR THE FINANCIAL YEAR 2017/18

Hon. E. David Burt: Thank you, Mr. Speaker.

Mr. Speaker, in accordance with Standing Order 43(4) and (5) I move that Supplementary Estimate (No. 2) for the Financial Year 2017/18 be approved.

The Speaker: Yes.

Hon. E. David Burt: Mr. Speaker, the Schedule identifies four items totalling $2,557,746 to be included in Supplementary Estimate (No. 2) for 2017/18, made up of $1,657,746 on current account and $900,000 on capital accounts.

Honourable Members will note, in respect of the total $2.5 million supplementary, all is considered a technical supplementary. A technical supplementary indicates that the requirement for additional funding can be met within the original appropriated estimates, however, cannot be transferred since they are appropriated within another ministry or capital account.

Supplementary Estimate 2017/18 (No. 2) directly relates to additional funding required for the Berkeley Institute's Operational Grant and redundancy payment for the former Department of Airport Operations. The total current account spending for 2017/18 is forecasted to be $921.5 million or $2 million (or 0.2 per cent) lower than the original budget that was passed by the former Administration of $923.5 million.

And, Mr. Chairman, as I have said before, that is despite the millions of dollars of unbudgeted expenses that this Government inherited, we are still going to beat the original estimate.

On the capital account $900,000 relates to two capital development projects: one for the Department of Energy to set up a solar photovoltaic TV facility at the Finger; and the airport and a joint venture with the private sector to set up a Bermuda Infrastructure Fund.

In respect of all capital projects, savings from existing capital projects have been identified, however, a technical supplementary is required to establish a revised and/or new total authorised figure (or TAF) in 2017/18 and the set-up of new projects. Total capital account spending for 2017/18 is forecast to be $60.4 million or 7.1 million below the original budget of $67.5 million.

Honourable Members will recall that the criteria for determining debatable supplementary estimates requires all items on current account to be debated if the total current account spend of a ministry shows an increase of greater than 10 per cent, or greater than $250,000, when compared to the original estimate. All capital items are debatable.

Applying the criteria that I have just described all four items on the current account and capital account are debatable. I would therefore move the approval of the items as follows: current account 1 and 2 are debatable; and current account 3 and 4 are debatable.

Thank you, Mr. Chairman.

The Speaker: Thank you, Mr. Premier.

Would you like to move us into Committee?

Hon. E. David Burt: Absolutely, Mr. Speaker.

At this point in time I move that the House do resolve itself into Committee of Supply to further con-

sider Supplementary Estimate (No. 2) for financial year 2017/18.

The Speaker: Thank you.

Mr. Deputy?

House in Committee at 2:28 pm

[Hon. Derrick V. Burgess, Sr., Chairman]

COMMITTEE OF SUPPLY

SUPPLEMENTARY ESTIMATE (NO. 2) FOR THE FINANCIAL YEAR 2016/17

The Chairman: Honourable Members, we are now in Committee of Supply for further consideration of the Supplementary Estimate (No. 2) for financial year 2017/18.

Minister, you have the floor.

Hon. E. David Burt: Thank you very much, Mr. Chairman.

Mr. Chairman, I move [item] 1, which is current account payment for $657,746 in the formerly named Ministry of Tourism, Development and Transport.

The Chairman: Any objections to that Head 48?

There appear to be no objections.

Carry on then, sir.

Hon. Walter H. Roban: Recognise me.

The Chairman: All right. Go ahead.

Hon. Walter H. Roban: May I continue, Mr. Chairman, on behalf of this particular—

The Chairman: Continue, Minister.

Hon. Walter H. Roban: Mr. Chairman, the original estimate for the Ministry—this had to do with Head 48 Ministry Headquarters.

Mr. Chairman, the original estimate for the Ministry Headquarters 2017/18 was $39,467,000. This amount was increased in September of 2017 by Supplementary Estimate (No. 1) in the amount of $4,675,530, or 12 per cent of the original estimate. As a reminder, the bulk Supplementary (No. 1) was required to recognise current account expenditures related to the following organisation: the World Triathlon Series—

The Chairman: One second, Minister. Where are you at because the Head 48 is $657,746?

Hon. Walter H. Roban: I was giving a background to the original budget—

The Chairman: Continue.

Hon. Walter H. Roban: —and I will go on to the specifics.

The Chairman: Well, if you can refer to that first so everybody can follow you.

Hon. Walter H. Roban: My humble apologies. I was referring to the original estimate for the budget for that year under Head 48.

The Chairman: Okay.

Hon. Walter H. Roban: I will continue, if I may?

The Chairman: Yes, you may.

Hon. Walter H. Roban: Thank you.

As a reminder, the bulk Supplementary (No. 1) was required to recognise current account expenditures related to the following organisations: the World Triathlon Series; the Bermuda Casino Gaming Commission; Bermuda Sail Training Association; Tall Ships; the JetBlue cooperative marketing agreement; and the America's Cup related expenses on the part of the Department of Marine and Ports.

Mr. Speaker, with the Supplementary Estimate (No. 2) the Ministry Headquarters settled a claim that had been brought for approximately $1 million against BAS-Serco Ltd. by its former employees for severance when they were transferred to Cl^2 Aviation Bermuda Ltd. The settlement amount was a global payment in the amount of $657,745.47 made to BAS-Serco pursuant to the indemnity in the Government Air Operations contract. The settlement was made on behalf of 28 of its former air operations and aviation maintenance service employees. There are certain reserved claims, Mr. Chairman, arising out of [the] air operations contract with BAS-Serco that are still before the courts and in arbitration. For that reason it would be imprudent to speak any further until those matters are resolved.

Now, Mr. Chairman, may I get your advice? I have also a description about the capital account that is under the same [head]. Do I do it now or will you call me later?

The Chairman: No, we will call you later.

Hon. Walter H. Roban: Okay, thank you.

Well, with that I will take my seat, Mr. Chairman.

The Chairman: Thank you, Minister.

Any further speakers?

There appear to be none.

Continue, Minister.

Hon. E. David Burt: Apologies, Mr. Chairman.

Mr. Chairman, I move that item 1 be approved.

The Chairman: Any objections to Head 48, item 1, being approved?

There appear to be none.

Approved.

[Motion carried: Head 48, Ministry of Tourism, Development and Transport Headquarters, passed.]

Hon. E. David Burt: Mr. Chairman, the next item for debate is item 2, which is for the Ministry of Education, current account for $1 million, though the Honourable Minister of Education has gone home sick and I will ask that the Junior Minister [do it], if he will.

The Chairman: The Chair recognises the Junior Minister, the Honourable Mr. Wayne Furbert.

Hon. Wayne L. Furbert: Thank you, Mr. Chairman.

Mr. Chairman, we are talking about Head 17 for a million dollars. Mr. Chairman, you are quite aware that education is very important for our kids, for their future, and for the future of Bermuda. The underinvestment in education during the past three years has done our children a disservice.

The Chairman: Mm-hmm.

Hon. Wayne L. Furbert: However, this current Government emphatically endeavours to put the education of our children first and foremost.

Mr. Chairman, for the 2017/18 fiscal year the Department of Education was allocated an original budget estimate of $109,096,000. For the provision of public school education this funding included an operational grant to the Berkeley Institute of $11,450,000.

Mr. Chairman, in November 2017 it was evident that this budget amount was insufficient to fund the basic operational needs of the senior school to effectively provide the education required for our children. The original 2017/18 budget allocation was substantially low in that after funding staff salaries and wages there was insufficient money remaining to cover critical operational and health and safety services such as cleaning of the school building, maintenance of school infrastructure, IT services, and security services.

Mr. Chairman, this cycle of underfunding cannot continue. Last week the Minister presented his 2018/19 budget for the Department of Education. He shared that both senior schools were allocated increases in operational grants this year. It was recognised that the Berkeley [Institute] needed additional funding and, thus, their budget increased to $13,024,000.

Mr. Chairman, since fiscal year 2014/15 the budget for the Berkeley Institute has been underfunded. I repeat, since 2014/15 the budget for the Berkeley Institute has been underfunded on an annual basis and the former Government knew it. Each year the School Board advised the same and a supplementary was requested.

Mr. Chairman, let me just share the data that supports this underfunding of the Berkeley Institute since the year 2014/15.

In 2014/15 the original budget was $11,794,000. The actual spending was $12,407,000, under budgeted by $1,198,000 *[sic]*.

In 2015/16, knowing that the actual spending in 2014/15 was $12 million, the Government only budgeted $10,968,000. The actual spending for that year was $12,166,000, underfunded by $1,198,000.

Again, knowing that the actual for 2015/16 was $12 million, in 2016/17 they only budgeted $11,451,000. Mr. Chairman, that was $1,084,000 short. Knowing that the budget was $12 million . . . that they spent $12,535,000 in 2016/17, in 2017/18 they only budgeted for $11,451,000. And so they knew that the budget would never match the actual and, hence, they under budgeted them.

This year, Mr. Chairman, this Government funded what Berkeley needed—$13,024,000.

[Desk thumping]

Hon. Wayne L. Furbert: Mr. Chairman, those are my comments.

The Chairman: Any further speakers?

The Chair recognises the Honourable Cole Simons from constituency 8.

Mr. N. H. Cole Simons: Thank you, Mr. Chairman.

Mr. Chairman, in preparation for this debate I did some research of my own. And we heard a lot said about [how] the Berkeley grant was underfunded for expenses.

The Chairman: Mm-hmm.

Mr. N. H. Cole Simons: So, Mr. Chairman, in preparation for that, I did two things. Number one, I called up the Headmaster at Warwick Academy and BHS and asked them how much their current fees were per student.

[Inaudible interjection]

An Hon. Member: You cannot make that comparison.

Mr. N. H. Cole Simons: Mr. Chairman—

[Inaudible interjection]

Mr. N. H. Cole Simons: —Mr. Chairman, I am talking about senior schools and I am comparing senior school fees with senior school fees.

[Inaudible interjections]

Mr. N. H. Cole Simons: Mr. Chairman, can you help me with the noise? I cannot hear my voice.

[Inaudible interjections]

The Chairman: I can hear you.

[Inaudible interjections]

Mr. N. H. Cole Simons: Mr. Chairman, Warwick Academy currently charges $19,444 for senior school students. BHS currently charges $21,555 for a senior secondary school student.

Mr. Chairman, in 2015 each Berkeley student was allotted approximately $20,276. In 2016 it was $19,878. In 2017, with the supplement, it was $20,789.

Mr. Chairman, as I said, these numbers far exceed the current fee level at Warwick Academy. So as far as them saying that Berkeley students were underfunded, I question it. I really question it because if you look at the Output Measures from Warwick Academy and BHS, they are spending similar amounts of money today. We were spending more money in 2015, we were spending more money in 2016, and we are spending more money in 2017.

Hon. Zane J. S. De Silva: Point of order, Mr. Chairman.

The Chairman: What is your point of order, Honourable Member Zane De Silva?

POINT OF ORDER
[Misleading]

Hon. Zane J. S. De Silva: Well, I think the Honourable Member is misleading the House because if he is going to give comparative numbers to Warwick Academy and other private schools, he should also mention what . . . do those private schools supply para[professionals] and therapists and things like this which the public schools do?

So if you are going to compare, let us compare.

The Chairman: Member, continue.

Mr. N. H. Cole Simons: Thank you, I will be happy to continue. What we are comparing is Output Measures. We are comparing performance at the end of the day. Who is—

[Inaudible interjections]

The Chairman: One second, one second.

[Gavel]

The Chairman: What we need to be comparing is this particular budget and the reason for the increase. That is where we have to be.

Mr. N. H. Cole Simons: Yes. I was just speaking to the variances, Mr. Chairman.

The Chairman: Mm-hmm.

Mr. N. H. Cole Simons: And the other concern that I have, yes, we are spending $1 million for 2017 and I understand that. But I also know there is an issue in regard to transparency. We are investing this money into the Berkeley Institute and I believe that we should have more say in its operations. The Berkeley has a Board of Governors and the Trustees, and I know that there needs to be more transparency, and we are investing that money into that school and I believe that the Minister of Education should have a report, an update on their strategic plan, which we have not received for a while. In addition, we just want to make sure that the money is spent wisely and that we have a say, given that we fund 95 per cent of the operations.

[Inaudible interjection]

Mr. N. H. Cole Simons: Right now, Mr. Chairman, I know that there is not much influence in regard to the contributions made by the team of the Ministry in the governance of the Berkeley Institute. The school is governed by its Board of Governors—

Hon. Wayne Caines: Point of order.

The Chairman: Honourable Member Wayne Caines, what is your point of order?

POINT OF ORDER

Hon. Wayne Caines: Mr. Chairman, Berkeley provides yearly reports, which include financials, which includes the breakdown that the Member speaks of, and clearly audited financial statements, Mr. Chairman.

The Chairman: Member?

Mr. N. H. Cole Simons: I accept that, Mr. Chairman. I accept his comments, but I am talking about oversight and governance on a day-to-day basis, given the amount that we invest in this school.

The other issue that I would like to question is . . . yes, what are they doing? They are an aided school.

The Chairman: Mm-hmm.

Mr. N. H. Cole Simons: And we provide money . . . what are they doing in regard to their own fund raising? What are they doing with the revenues received from the old Berkeley Institute building, which I know is rented out? Do we have any idea what type of rent is collected from the old Berkeley Institute? And is that used to offset some of the revenues or the grant money that we give to the school? So I am just asking because we do not know these answers, and I am saying "we" meaning the Ministry of Education.

And so all I am saying is, yes, I support the grant.

The Chairman: Mm-hmm.

Mr. N. H. Cole Simons: But I also want more say in oversight, Mr. Chairman, and more active oversight because we provide 95 per cent, almost, of the operating expenses for the Berkeley Institute and we, at this point in time, have very little oversight.

And like I also said . . . I think I said it in the Education budget, it is time for us to revisit and examine whether we should continue with the concept of "aided" or . . . and I always forget that word . . . "maintained" schools because, at the end of the day, it is a different culture now. Before we had benefactors that would take care of the students and the schools in their neighbourhood, but we do not have that today anymore. And so I am suggesting that we even consider doing away with the classification of aided and maintained schools because, at the end of the day, the Bermuda Government is paying for—

The Chairman: Honourable Member, you are—

Mr. N. H. Cole Simons: —most of—

The Chairman: —Member! You are going into a general debate. We are not going there. Let us stick to the reasons against the $1 million grant.

Mr. N. H. Cole Simons: So, okay, then, I take your guidance, Mr. Chairman.

The Chairman: Please.

Mr. N. H. Cole Simons: So, my question then becomes, can the Minister tell us how the $1 million will be spent [and] give us a breakdown as to why they need an additional million dollars? My proposition is if we had more insight and oversight on the Board on an ongoing basis, we would have these answers.

Thank you.

The Chairman: Thank you.

Any further speakers?

The Chair recognises the Premier, the Honourable David Burt.

Hon. E. David Burt: Mr. Chairman—

The Chairman: Yes.

Hon. E. David Burt: It is absolutely remarkable that the former Minister of Education will get up and tell us what we should be doing when he did not do that when he was the former Minister for Education.

[Desk thumping]

Hon. E. David Burt: Let us make it very simple.

So now let me answer a few questions, seeing that he has posed the questions. The first question that he asked is whether or not there is transparency in what they are using money for, and he says the Ministry of Education does not know. Well, guess what? That may have been correct when he was the Minister, but this Government practices accountability, and the same things which they spoke about that we should be doing, we are doing.

[Desk thumping]

Hon. E. David Burt: So when Berkeley made the request we asked for their complete and total financials, we had a meeting with their Board to discuss the fact that we are going to require additional accountability, and those are the different things which this Government is doing. They talk about what they should have done. We actually do that, Mr. Chairman.

But it is rich for . . . and I am happy that at the end he said that they support this funding. Well, here is the thing, Mr. Chairman, if they supported this funding, when this budget went through in 2017/18 and he was serving as the Minister of Education, he would have told the Finance Minister at the time that it was not enough money and Berkeley needs more. But no, that money went to fund boats and not schools.

[Inaudible interjections]

Hon. E. David Burt: This Government is going to put our priorities correct. So with all of those items being said, Mr. Chairman, I am happy that the other side has decided to say they support this funding, but the former Minister of Education's words ring hollow when he could have supported them when the original budget was passed and we knew it was short.

[Desk thumping]

The Chairman: Any further speakers?

There appear to be none.

Minister, do you want to move this head?

Hon. E. David Burt: Mr. Chairman, I move that item 2 be approved.

The Chairman: It has been moved that item number 2, Head 17, be approved.

Any objection to that?

There appear to be none.

Approved.

[Motion carried: Head 17, Ministry of Education, passed.]

Hon. E. David Burt: Mr. Chairman, I will ask that item number 3 be approved. It is in the name of Tourism Development and Transport Headquarters, and the Honourable Deputy Premier will lead this one, Mr. Chairman.

The Chairman: You have the floor Deputy Premier, Walter Roban.

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

Mr. Chairman, with respect to supplementary [item] number [3], the Ministry Headquarters is seeking approval for a supplementary related to the Ministry Headquarters capital account for capital development by the Department of Energy.

The Ministry Headquarters required capital funding in the amount of $400,000 for the Department of Energy which required additional funding to satisfy their responsibilities under the Airport Solar PV Project Agreement. The funds were required for the clean-up of the development known as the Finger. These responsibilities included the removal of a fuel storage tank, landscaping the edges of the development area, and the removal of a large amount of milled materials that were left on the site by the Department of Airport Operations.

Mr. Chairman, that concludes my presentation on Supplementary Estimate (No. 2) 2017/18 for the Ministry of Transport and Regulatory Affairs, Head 48.

The Chairman: Thank you, Minister.

Any further speakers?

The Chair recognises the Honourable Grant Gibbons.

Hon. Dr. E. Grant Gibbons: Thank you, Mr. Chairman.

Mr. Chairman, this particular amount, and I guess one of the first questions I have is, has the money actually been spent at this point? This was part of the request for proposal that was done to put a utility-scale solar facility on the Finger. And when the proposal was actually being drafted within the Department, the Ministry at the time, it was felt that if the Government spent a certain amount of money to clean-up some of the stuff that had been abandoned there, there were some old fuel tanks that had been emptied, some of them had been cut up and some of them had not, but it would reduce the amount that any bidder would put into their bid for clean-up themselves. We would have a much clearer sense of what that cost of clean-up would be. So it was an effort, at the time, to essentially maximise the bids that we would get from bidders. And I guess the issue was it was not entirely clear when this clean-up would be done and when money would be spent, which is probably why it is coming up as a supplementary.

So, the question I have for the Minister is, has this work actually been completed at this point? Or is it in progress? Or will it be done?

Thank you.

The Chairman: Any further speakers?

Minister?

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

The Honourable Member for [constituency] 22 has actually answered his own question. Since it was not known when it would be required, the money could only be requested once we were clear that we needed it. This money was not allocated in any previous budget, as has been made clear, so it has now been requested so that the work can be done.

The Chairman: Thank you.

Any further speakers?

The Honourable Member Grant Gibbons, you have the floor.

Hon. Dr. E. Grant Gibbons: Thank you.

Without appearing to be overly persistent here, could the Minister say whether the work—the actual work—has been done at this point? Has the money been spent to do the clean-up which is being billed here?

Thank you.

The Chairman: Minister, do you want to be a little more clear?

Hon. Walter H. Roban: The work has not been started yet because it is only very recently we were aware that we were required . . . that the process that is a part of the ultimate end of this . . . starting the actual build, once that was clear, then we knew of the work that had to be done. That is all.

The Chairman: Honourable Member?

Hon. Dr. E. Grant Gibbons: So, the obvious question, Mr. Chairman, is why is the money not in the 2018/19 budget?

The Chairman: Minister, do you want to reply to that?

Hon. Walter H. Roban: All I can say is that the work has started, but it has just started . . . just recently. That is all I can tell the Honourable Member. Perhaps he can go down there himself to see the progress if he is so inclined.

The Chairman: Thank you.

Any further speakers?

There appear to be none.

Minister, do you want to continue?

Hon. E. David Burt: Thank you, Mr. Chairman.

Mr. Chairman, I move that item 3 be approved.

The Chairman: It has been moved that item number 3, Head [48] be approved.

Are there any objections?

There appear to be none.

Approved.

[Motion carried: Head 48, Ministry of Transport and Regulatory Affairs, passed.]

Hon. E. David Burt: Thank you very much, Mr. Chairman.

Mr. Chairman, I ask that I now move to item number 4, if I may?

The Chairman: Mm-hmm.

Hon. E. David Burt: And this is a capital account item for the Ministry of Finance Headquarters.

The Chairman: Continue.

Hon. E. David Burt: Thank you very much, Mr. Chairman.

Mr. Chairman, Honourable Members will recall that on November 17, 2017, I made a Ministerial Statement on the establishment of the Bermuda Infrastructure Fund. The key features of the fund are as follows: the fund is being formed primarily to make investments in Bermuda based infrastructure, assets, and opportunities; the general partner will be Fortress Bermuda Infrastructure Fund, GPLLC; and the manager will be Fortress Bermuda Infrastructure Fund Advisors; Management fees are payable semi-annually and in advance in the amount of 0.75 [per cent] or 1.5 [per cent] annually of capital invested and the minimum is $1 million per year; and the stipulations are that, in the event the management fee is less than $500,000 in a semi-annual period, the Government must pay the difference. The amount paid by the Government will represent an interest into the fund.

Mr. Chairman, I noted that there are many potential investment opportunities for the Bermuda Infrastructure Fund to consider. Some examples are: upgrades to Bermuda's energy infrastructure; sewage treatment; upgrade support facilities; redevelopment of the Hamilton waterfront; and construction of mixed-use residential and commercial buildings in the City of Hamilton.

In this Statement I advised that the Government will be liable to pay the initial management fee of $500,000 and will be liable to pay some fees as long as the amount invested by the Fund is below $66.7 million. At that time I also indicated that there was no budget allocation for the management fees that have to be funded by Government for this proposal. Therefore, unless savings could be found from current allocations, a supplementary estimate would have been required. It is important to remember that Government will receive an equity stake in the Fund for any payments made which will rank equally with other investors.

Fortunately, Mr. Chairman, money was able to be found in other places, however, we have to put forward this technical supplementary to make sure that we can create the allocation for this according to our rules.

Mr. Chairman, I can confirm that the documentation required to get the Fund up and running has been completed, and that the initial management fee of $500,000 will be made before the conclusion of this fiscal year. I can also report that the Minister of Public Works' Permanent Secretary met with Fortress representatives on March 7, 2018 to advise the Fund will close within the next three weeks. During this meeting the Ministry shared with the Fortress team details of infrastructure projects that have commenced and also discussed other infrastructure projects. The meeting ended with the understanding that Fortress will follow up with the Ministry once the Fund has closed to advise the next step.

With that, Mr. Chairman, I welcome comments from other Members.

The Chairman: Any further speakers?

There appear to be none.

Hon. E. David Burt: Thank you very much, Mr. Chairman.

Mr. Chairman, I move that item number 4 be approved.

The Chairman: It has been moved that item number 4, Head 65, be approved.

Are there any objections to that?

There appear to be none.

Agreed to.

[Motion carried: Head 65, Ministry of Finance Headquarters, passed.]

Hon. E. David Burt: Thank you very much, Mr. Chairman.

Mr. Chairman, I move that we adopt the Supplementary Estimate (No. 2) for 2017/18 as printed and I move that it be reported to the House.

The Chairman: It has been moved that the Supplementary Estimate (No. 2) [for financial year 2017/18] be approved and be reported to the House.

Any objections to that?

There appear to be none.

Hon. E. David Burt: Thank you, Mr. Chairman.

[Motion carried: Supplementary Estimate (No. 2) for the financial year 2017/18 was considered by a Committee of the whole House and passed without amendment.]

House resumed at 2:56 pm

[Hon. Dennis P. Lister, Jr., Speaker, in the Chair]

REPORT OF COMMITTEE

SUPPLEMENTARY ESTIMATE (NO. 2) FOR THE FINANCIAL YEAR 2017/18

The Speaker: Good afternoon, Members.

Are there any objections to the consideration of Supplementary Estimate (No. 2) for the financial year 2017/18 being reported?

No objections.

Then it is reported and so moved.

We now move on to the next item on the Order Paper, which is Order No. 4, the second reading of the Payroll Tax Amendment Act 2018 in the name of the Minister of Finance.

Minister . . . or the Junior Minister.

BILL

SECOND READING

PAYROLL TAX AMENDMENT ACT 2018

Hon. Wayne L. Furbert: Thank you, Mr. Speaker.

Mr. Speaker, with the Governor's recommendation I move that the Bill entitled the Payroll Tax Amendment Act 2018 be now read the second time.

The Speaker: Continue.

Hon. Wayne L. Furbert: Mr. Speaker, the Bill now before the House is the Payroll Tax Amendment Act 2018. The purpose of the Bill is to make a number of reforms to the Payroll Tax Act 1995 (the principal Act) and the Payroll Tax Rates Act 1995.

As announced in our 2018/19 National Budget Statement, Government proposes to make a number of reforms and new concessions to the payroll tax structure.

Mr. Speaker, the Government has been steadfast in its position that we regard payroll tax to be the enemy of creating jobs. Given this Government's clear desire to increase the number of jobs in Bermuda, the Government noted in the Budget Statement that we will not implement the second phase of the payroll tax increase put forward by the former Government. Accordingly, all employer rates will remain unchanged and will not be increased as planned.

Mr. Speaker, to provide relief to those workers that have suffered through wage stagnation and increases in the cost of living, this Amendment will adjust the payroll tax employee's rate bands to provide tax reduction to those earning less than $96,000. Accordingly, the lowest employee band will be reduced from 4.75 per cent to 4.0 per cent and the second rate band will increase from 5.75 per cent to 6.5 per cent. This will result in a working couple earning $40,000 each or a combined total of $96,000 annually receiving an increase in their take home pay of $720. Anyone making less than $96,000 will see a reduction in taxes. Anyone earning more than $96,000 will not see any change in their payroll taxes. The two higher bands will remain the same. The most significant change to the payroll tax regime provided for in this Amendment is to address the so-called concept of "notional remuneration."

Mr. Speaker, notionals have been a source of concern for many years and the 2015 CARTAC report noted the following: "The concept of notional remuneration of deemed employees and self-employed persons may be an important loophole as it is practically impossible for the Office of the Tax Commissioner (OTC) to make a judgment on the fairness of the taxpayer's valuation, and taxpayers are well aware of such weakness. Though no short term solution for this problem is feasible, it can be mitigated in the medium term by replacing the subjective criteria established in the Payroll Tax Act by more objective rules."

The Fiscal Responsibility Panel in their December 2017 Report also recognised this problem and noted the following: "The government is right to be concerned about the degree of inequity in the distribution of income and wealth on the island and like governments elsewhere should pursue fiscal measures that address the issue. This should involve the taxation of dividend income where dividends are being taken as a form of salary payment."

Finally, Mr. Speaker, the former Government in successive budgets noted the long-standing problem of notionals and proposed to appropriately set and enforce notional tax amounts. This notional loophole is an inequitable feature of our tax system that is long overdue for reform.

To address this often-abused part of the payroll tax system this amendment proposes to repeal the

concept of notional remuneration for deemed employees and self-employed persons so that all employees—deemed employees and self-employed persons—will be taxed on the basis of their actual remuneration as defined by section 7 of the Payroll Tax Act. This change will improve transparency, assist enforcement, and largely eliminate the risk of underdeclaration and underpayment. It is estimated that this change will increase payroll tax revenues by at least $10 million.

Mr. Speaker, remuneration as provided for in section 7 is all-encompassing and includes items such items, amongst others: wages, salary, leave pay, commission, gratuity, fees, bonuses, any money under any profit sharing income scheme, rent, stock options, meals, et cetera. This amendment does not make any significant change to the definition of remuneration other than to clarify that it includes any other benefit of any kind whatsoever, whether provided in cash or otherwise than in cash, or what we call "cash in-kind."

To assist with the implementation of the reformed payroll tax system, the OTC will be issuing guidance notes and will conduct various sessions with employers and other key organisations in the business community.

Mr. Speaker, this amendment also provides payroll tax concessions for employers who hire persons with disabilities, new small business entrepreneurs and taxi operators to assist persons with disabilities in gaining access to employment, and to reward those employers who already have disabled persons. This amendment will eliminate the employer portion of payroll tax for any disabled person. I will repeat that. This amendment will eliminate the employer portion of payroll tax for any disabled person. Also, new entrepreneurs—another nice one—who register and meet the criteria established by the Bermuda Economic Development Corporation in the creation of a new business, will be exempted from the employer portion of payroll tax for themselves and any employees for the first year of business.

Mr. Speaker, I think that is very important. Any new entrepreneurs who register with BEDC in the creation of a new business will be exempted from the employer portion of payroll tax for themselves and any employees for the first year of business.

Finally, recognising the challenges faced by taxi operators, the amendment proposes to modify the payroll tax provision—and Mr. Speaker, taxi drivers love this—for taxi owners by implementing an annual charge of $1,000 to be paid at the time of registration. This fee will be borne by the taxi owner. There is no more payroll tax for the part-time taxi driver.

To assist in the implementation of the amendments provided for in this amendment and the collection of revenues, all posts have been unfrozen in the Office of the Tax Commissioner and aggressive measures will be taken to reduce accounts receivable. Also to enable the OTC to effectively conduct its function in this regard and to provide a further deterrent to tax offenders, the Government proposes to strengthen the provisions under the Taxes Management Act 1976 to significantly update the penalties applicable to the failure to comply with the various requirements under the Act. It should be noted that these penalties have not been adjusted since the Act came into force, and that was 1976.

Mr. Speaker, with these introductory remarks I now read for the second time the Bill entitled the Payroll Tax Amendment Act 2018.

The Speaker: Thank you, Junior Minister.

Does any Member wish to speak to this?

I recognise the Opposition Leader. Honourable Member, you have the floor.

Hon. Jeanne J. Atherden: Thank you, Mr. Speaker.

Mr. Speaker, we obviously knew that these amendments were coming because the Minister indicated, not only in his Budget Statement, but also when we were having discussions of the Budget that they were coming. And so I think we recognise that some of these things are in advance of the Tax Reform Commission because the Government has to introduce and has to start collecting the money that it can right now, and anything that the Tax Reform Commission comes up with might result in some sort of adjustment.

But I do think that there are obviously some things in this Bill which are very encouraging and the statements that the Junior Minister made with respect to the Office of the Tax Commissioner are also encouraging. I think the mere fact that the taxi drivers, not only are they able to have the flat rate of payroll tax of the $1,000 per annum, which is significant, but I also, and I am sure everybody appreciates the fact that they have to pay that before their annual vehicle licence to get their licence. So there is some incentive and some control because too often when we see taxes, the taxes are there but they are never collected because people find a way in which to slip out of them. Unfortunately the system has not been able to catch up. They are so busy trying to collect lots of other taxes that sometimes these things slip through.

With respect to tax with respect to the disabled persons, the mere fact that the Government is responding to its commitment to help disabled individuals get employment, to recognise that, you know, we do not have enough people on this Island as it is right now, and I know (as I am putting my former Health hat on), we have done a lot to try and get disabled people to make them more functional and be able to carry out jobs which they are capable of. So, to have this incentive where the employer is able to get the benefit, will go a long way for people deciding to just make that extra push.

Equally, with respect to the BEDC, many times we have tried to put incentives to make people take advantage of starting new businesses and have people wanting to just decide to do something, but there has always been what I call the sort of thing of, *How much am I going to have to pay?* because you are paying that person to do something even before you know whether you are going to generate enough revenue to offset the additional expenditure. So the mere fact that we now have it, at least for the first year, I would like to think that a lot more of the employers will decide that it is worth their while doing this and have a go at it and at least stick it out for one year.

I do not know what provisions are put in there, but maybe, if it is not already in there, that one should have as a commitment that if you get the exemption for one year that you have to keep that employee for the year in order to keep your exemption. Because sometimes people could start and they could hire the person on the basis that they do not have to have payroll tax, and then afterwards decide that, *hey, maybe it is not working,* and they give up the opportunity before they have really made sure that it worked. So it might be a worthwhile consideration that says that in order to be eligible for your payroll tax exemption for yourself and the individual, you must finish the year off. And that way you give it a true test because, you know, we want people to give it a true test. And they have gotten the benefit, so I just think maybe . . . I just throw that out for something for them to consider.

I think the only question that I had . . . and I cannot remember because I am looking at the Act and I am also looking at things that I read before. This whole thing about a self-employed person deemed to have . . . rather than his notional remuneration that it is going to be his actual remuneration. And I cannot remember how we were going to make sure, how the Government is going to make sure that it actually knows what the person's actual remuneration is. And the reason I say that is because in the past we have had this whole thing of people's notional remuneration and there has always been this to-ing and fro-ing about what it is and is it as much as what the Tax Commissioner and the people in Government would say to make sure that there is a discrepancy between what the Government wants to collect and what the individual wants to pay. So I wondered if the Junior Minister in his response could indicate whether Government has gotten sufficiently down the path of the regulations to talk about how it will make sure that it can be satisfied that the actual remuneration is what the person is paying tax on.

And I think last but not least . . . well, increasing the fines for criminal offence for non-compliance is always good. But as I have said many times, if you do not get to the people to tell them that they are not complying, that they have created an offence, then it is not so much about what you are going to fine them for, it is actually getting the actual tax from them. Because the fines do not seem to make it enough of a deterrent for people to say, *Well, let me actually pay that money out.* So increasing the maximum is not as important as what the Junior Minister said, which is the fact that there will be more people in the Office of the Tax Commissioner.

And one would hope that this would result in more people being able to go out and get together with the businesses and to talk it through with them in terms of why they are not committing, why they are not submitting, because nothing is worse than us having an increase in the amount of revenue/ accounts receivable, which has been growing and growing and growing. So the last thing we want is new taxes [but] having an increase in the accounts receivable. So, I would like to think that when the Junior Minister and Government come to talk about how it is going to be impacted that they will talk a bit more about how it is going to be collected.

I think without getting into great detail, we know that [when] the revenue has been collected . . . the Junior Minister talked about $10 million. Well, I would just say to the Junior Minister—and through him to the Minister of Finance—that maybe when he is giving his semi-annual updates or even, hopefully, when he is giving his quarterly updates, that he might let this House know and other people know how much of the actual additional revenue is collected. Because so often what happens is that by the time we find that something has been put in place, there is lots of to-ing and fro-ing with the individuals, there are lots of discussions, and there is a delay in the actual collecting. So, if the Government is anticipating $10 million deferred or delayed for six months is $5 million that means the Government will have to find some more money.

Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

Does any other Honourable Member wish to speak?

I recognise the Honourable Member from constituency 4. Honourable Member Furbert, you have the floor.

Mrs. Tinee Furbert: Thank you, Mr. Speaker.

I would like to take the opportunity, Mr. Speaker, to speak to something that is very exciting to me and that is the tax concession for persons with disabilities. When this was announced in the Budget debate there were a number of people who contacted me who were very excited about this initiative, and they wanted to know who it could apply to. So I am thankful for the leadership of the finance team to be able to include this in this amendment.

Just for the sake of education, Mr. Speaker, the Junior Minister of Finance mentioned earlier that

payroll tax is the enemy of creating jobs. And I agree with that statement. What I want the listening audience to know is that there are one billion people globally who have a disability. That is one in seven. And that statistic is taken from the World Health Organization. For our own local statistics we do know that over a thousand people collect disabled parking permits. We also know from the recent census of 2016 that 1,174 persons reported [that they were] unable to work due to a disabling health condition. Mr. Speaker, this number is up from 2010 when there were 834 persons who were unable to work due to a disabling condition.

The other thing we know, Mr. Speaker, is that there is a very low rate of employability of persons with disabilities globally. And I can make a reference to the United States [with] six million employees, only 34 per cent, who are workers with disabilities, and so that is one example.

But the question is, Mr. Speaker, Why would we want to introduce something like this to Bermuda? And the problem is the attitudes towards persons with disabilities, and particularly the attitudes of employers to persons with disabilities. And so we want to shake it up a bit and make employers know that we as a Government are comfortable with this and we want to encourage employers to be comfortable with this.

There was a study done, Mr. Speaker, which looked at employers expressing willingness to hire applicants with disabilities, but this still exceeds their actual hiring practices. There was also a study done by . . . there was a literature review by Wilgosh and Skaret which concluded that an employer's attitudes are a potential barrier of employment opportunities for persons with disabilities. And when I speak about attitudes, anyone who is in the working field can tell you the sort of attitudes that they experience working out in the field of feeling less than a typical person who does not have disabilities.

Often they are patted on their head or they are . . . you know, someone says, *Come here. Look, can I pray for you?* What persons with disabilities want is to be recognised as having the knowledge and the ability to be able to participate as any typical employee and they should have that respect as an employee working for any organisation.

And so this Bill, Mr. Speaker, which I support, particularly the tax concessions for persons with disabilities, is our opportunity to be able to create equal and fair opportunity practices; to assist with changing the attitudes of employers towards persons with disabilities or workers with disabilities; the opportunity for them to gain a competitive advantage because we know that employment opportunities are associated with better functioning.

And so with that said, Mr. Speaker, I support this Bill.

The Speaker: Thank you, Honourable Member.

Does any other Honourable Member wish to speak?

I recognise the Honourable Member Commissiong. Honourable Member Commissiong, you have the floor.

Mr. Rolfe Commissiong: Thank you, Mr. Speaker.

Mr. Speaker, certainly we are happy about the fact that we continue to see the drive for a more progressive system of taxation beginning to take root in Bermuda. It is long overdue.

In a previous debate, at the risk of too much retrospection, I did talk about the tax incidence survey, the last one being published in the early . . . the late 1990s or early 2000 which showed that the two bottom quintiles of income earners in Bermuda carried the burden of roughly 20 per cent of the tax load back in circa 1998/99 and 2000 (around that period) under the late Mr. Eugene Cox who was then Finance Minister. The study was done. The top quintile of income earners . . . those who earned [the most], for example, only carried about 10 or 11 per cent of the burden back then.

I think it is safe to say in the intervening 17, 18 years or so that those figures—that gap—has only widened. And so we know that what has bedevilled many so-called developed societies over the last 10, 15 years. All the talk is about the growth of income inequality and the impact of income inequality on these respective, so-called, developed societies.

I think that I also want to spend just a second to commend the former Government . . . some may say they did not go far enough. But certainly the former Finance Minister began the process of turning the corner, I think ideologically, around this issue and now we are here to finish the job, if you will.

I just want to commend, again, what is taking place here, Mr. Speaker. Certainly our taxi drivers are going to be very happy about this. The last thing any political party wants to do is run afoul of the taxi drivers. The taxi drivers can be the bane of our existence on either side of the aisle going back for decades, but I think this goes a long way in showing them that they finally have a Government that gets it and recognises that they need to also have the burden of inordinate levels of taxation removed from them.

Secondly, the very, very progressive move on its part to eliminate the deemed remuneration . . . or for persons who are earning significant amounts of income to be able to claim under, [to be paid] under the notional income or notional salary provision which was formerly in the Act. This is being removed. And there are estimations that this is going to result in roughly a $10 million increase in tax revenue.

Now this is important because income inequality and its growth is really a reflection of a maldistribution of income within any respective jurisdiction. Again, Bermuda has not been immune to this. And so these measures and I anticipate the measures

that will be coming down the road with respect to the findings of the Tax [Reform] Commission will move Bermuda forward in a way that is: (1) is going to remove the burden on employment vis-à-vis our overreliance on the payroll tax for the raising of Government revenue; and (2) ensure that this tax burden on low to lower middle income Bermudians is shifted considerably off their backs, off their households.

The provision for first-time entrepreneurs, if I can characterise it like that, is also welcome. We want to make sure that we are going to be progressive on both sides of the aisle, both sides of the question here. We want to remove the burden upon low income Bermudians, but also foster entrepreneurship and business development. I think this helps and I do think it is the right way to go.

Mr. Speaker, again, all of this is just part of the overall puzzle we are trying to solve here. Again, the Tax Commission that has begun its work, I believe, the Committee on the Cost of Living headed by the Senator Richardson is another part of this, and these measures go a long way in delivering on the promise that the PLP set forth in its platform.

Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

Does any other Honourable Member wish to speak?

No other . . . Premier, we can turn it back to you.

Hon. E. David Burt: Thank you very much, Mr. Speaker.

I did not move the motion; the Junior Minister is doing this Bill, Mr. Speaker. But I just wanted to make sure that I could chime in and echo the comments of the Members on this side who spoke in support of this.

Mr. Speaker, at the General Election the Progressive Labour Party promised a better and fairer Bermuda and we are starting to deliver, not only on the promise of building that better and fairer Bermuda, but we are also fulfilling the promises which we laid out in our election platform.

One of the major items which we announced inside of our Budget was making sure that we could reduce taxes for low income earners. We have done that. In addition to that, Mr. Speaker, we said that we would provide support to entrepreneurs. We have done that. We said that we will make our tax system more fair, and through the "notional" reform which we have had the courage to tackle, we have done that, Mr. Speaker.

In addition, Mr. Speaker, we have brought fairness and simplicity in regard to taxi owners. We have reached out in making sure that Bermuda is a more equitable place by providing additional incentives for the persons with disabilities inside of our community to be employed. We are doing the work which needs to be done, Mr. Speaker, in order to create a better and fairer Bermuda.

So, again, I would like to thank the Junior Minister of Finance and the team at the Ministry of Finance. We had a collaborative process, Mr. Speaker. The collaborative process resulted in a budget that was widely applauded throughout the country and it has resulted, with that collaboration with our industry partners, it has come to a place where we are now able to put forward a Bill which will make our tax system far more fair.

I will close and say this on the issue of notionals . . . Mr. Speaker, notionals are also [of] assistance to the small business owner because we have heard the story of the struggling small business owner who has to pay taxes on more money than they actually take home, which is the exact opposite of the partner in a wonderful large law firm who does not pay taxes on the money which he brings home. That is the example of unfairness. But when we pass this Bill, it will be a lot more fair inside Bermuda, Mr. Speaker.

Thank you.

The Speaker: Thank you, Mr. Premier.

Any other Member?

I recognise the Honourable Member from constituency 23. Honourable Member Gordon-Pamplin, you have the floor.

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

Mr. Speaker, I just wish to speak to one of the issues that arises in this Payroll Tax Amendment Act, and that is with respect to entrepreneurs which the Junior Minister alluded to in his presentation. I think that what is important . . . and I am not negating the importance of all of the areas. Obviously, the taxi drivers are happy. Obviously, the disabled persons need to have special treatment. But the dispensation that has been afforded to the entrepreneur through these processes is one that I wish to speak to. And that is through the Bermuda Economic Development Corporation

Historically, they have put on a course which was entitled "Who Owns the Ice House?" And it was one that assisted new entrepreneurs to understand the rudiments of getting into an entrepreneurial atmosphere, creating a business, and how to make sure that it was successful. And I think that it is important, when you hear that we are making provisions for entrepreneurs, for people who would be entrepreneurs to know that through the Bermuda Economic Development Corporation there is that particular ability for them to go to have their business ideas sounded, to be able to make the determination as to [if] what they are proposing is viable. They also have, through BEDC . . . and this is under Erica Smith who is the Director. I think that is her position, as well as the two gentlemen who are responsible for actually carrying

out some of the programmes under Bermuda Economic Development Corporation, Mr. Spriggs and Mr. Lambert, who have done yeoman service to the entrepreneurs of Bermuda in order to assist them to enhance their abilities and their success.

So I just wanted to highlight that for those who might be considering, knowing that sometimes we have opportunities that are available, we have programmes that are available, but if you do not know about them then sometimes it will be difficult to be able to take advantage of them. So I would really like to laud that particular programme through the Bermuda Economic Development Corporation and to know that there are people who we can take good advantage of, and now, with an additional tax concession, there is further incentive for them so to do.

Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

Does any other Honourable Member wish to speak?

No other Honourable Member?

Junior Minister, do you want to close—

Hon. Wayne L. Furbert: Yes, thank you—

The Speaker: —that and move us to Committee?

Hon. Wayne L. Furbert: Thank you, Mr. Speaker.

Let me first of all just say thanks to everyone for their comments. As the Premier said, this is really significant going forward.

I think one of the reasons why so many people escape is because there is a lack of compliance and audits done within the OTC. And there will be a significant amount of advertising taking place to let people know clearly what the new rules are.

And there will be individuals out in the field doing more audits than ever and I think once people realise that their name could be called, no one is scared of the OTC but everybody is scared of the IRS, so if we . . . we do not want to put the fear of God in individuals, but we have to recognise that, I think, it is like paying parking tickets, no one really worries too much about it. But this Government is taking it seriously and a team will be put in place so that on different months audits will be done, realising that you could be next.

So, Mr. Speaker, with those few remarks, I move that the Bill be committed.

The Speaker: Thank you.

Deputy, would you like to take the Chair?

House in Committee at 3:31 pm

[Hon. Derrick V. Burgess, Sr., Chairman]

COMMITTEE ON BILL

PAYROLL TAX AMENDMENT ACT 2018

The Chairman: Honourable Members, we are now in Committee of the whole House for further consideration of the Bill entitled Payroll Tax Amendment Act 2018.

Minister, you have the floor.

Hon. Wayne L. Furbert: Thank you, Mr. Chairman.

I move clauses 1 through 22.

The Chairman: Any objections to moving clauses 1 through 22?

There appear to be none.

Continue.

Hon. Wayne L. Furbert: Mr. Chairman, this Bill seeks to amend, as we said before, the Payroll Tax Act 1995 ("the principal Act") and the Payroll Tax Rates Act 1995 ("the Rates Act"), to increase the penalties for offences under the Taxes Management Act 1976 ("the Management Act"), and to make consequential and connected provisions. The most significant change to the payroll tax regime is the repeal of the concept of notional remuneration for deemed employees and self-employed persons, so that all employees, deemed employees, and self-employed persons will be taxed on the basis of their actual remuneration (as defined by section 7 of the principal Act).

Clauses 1 and 2 are self-explanatory.

Clause 3 amends section 2 of the principal Act (interpretation) to broaden the definition of "profit-sharing scheme," and to remove a reference to notional remuneration.

Clause 4 amends section 7(1) of the principal Act (meaning of remuneration) to clarify that remuneration includes indirect payments, and by amending subparagraph (e) and inserting a new final subparagraph (i) in order to clarify that remuneration includes any benefit whatsoever not included in any of the preceding subparagraphs.

Clause 5 amends section 9 of the principal Act (employees in special situations) to delete the reference to taxi drivers, because special provision is being made for taxi drivers under new section 9B inserted by clause 7.

Clause 6 inserts new section 9A into the principal Act (employer rate where employee is a disabled person, as defined).

Clause 7 inserts new section 9B into the principal Act (special provision for taxi drivers). A person who holds a taxi permit will be required to pay a flat rate of payroll tax per annum ($1,000 as prescribed by clause 17) before his annual vehicle licence may be issued by the Transport Control Department under the Motor Car Act 1951. Apart from that, taxi drivers will no longer be liable to payroll tax in respect of remu-

neration as a taxi driver. Provision is made for a partial payment and refund in cases of permit transfer, et cetera.

Clause 8 amends section 11 of the principal Act (remuneration of deemed employees) to delete the reference to notional remuneration and provide that a deemed employee is deemed to be paid his actual remuneration.

Clause 9 repeals sections 12 and 13 of, and the First Schedule to, the principal Act, which relate to notional remuneration.

Clause 10 amends section 14 of the principal Act (remuneration of self-employed persons) to delete the references to notional remuneration, and provide that a self-employed person is deemed to pay himself his actual remuneration.

Clause 11 amends section 18 of the principal Act (powers of Commissioner to obtain information) so that the powers apply to an assessment under section 16 of the Management Act, and increases the maximum fines for criminal offences of non-compliance with this section.

Clause 12 amends section 24A of the principal Act (anti-avoidance provision).

Clause 13 inserts new section 24B into the principal Act, which requires the Tax Commissioner to issue and publish guidance regarding compliance with the principal Act. Subsection (3) provides that in determining whether a person has committed an offence under the principal Act, or an offence under the Management Act relating to payroll tax, a court shall consider whether a defendant has followed any relevant guidance issued under this section. This provision is modelled on section 49M of the Proceeds of Crime Act 1997 (guidance for money laundering offences).

Clause 14 removes references to "deemed remuneration" throughout the principal Act.

Clause 15 amends section 3A of the Rates Act (the standard rate bands) to decrease the first rate band to 4 per cent and increase the second rate band to 6.5 per cent.

Clause 16 inserts new section 4A into the Rates Act to prescribe an employer rate of 0.0 per cent in relation to employees falling within the definition of disabled person in section 9A of the principal Act (inserted by clause 6).

Clause 17 inserts new section 4B into the Rates Act to prescribe an amount of $1,000 for motor taxi owners for the purposes of section 9B of the principal Act (inserted by clause 7).

Clause 18 amends section 5 of the Rates Act to remove taxi drivers from Class B (1.75 per cent rate); to insert new paragraph (k) into Class C (0.0 per cent for new small businesses registered under the Bermuda Economic Development Corporation Act 1980 for first year of business); and to repeal Class D.

Clause 19 makes significant increases to the maximum fines for criminal offences under the Management Act.

Clause 20 makes a consequential amendment. It revokes and replaces paragraphs 1 to 3 of the Schedule to the Tax (Accounts and Records) Regulations 1991 to update the records which employers and self-employed persons must keep for payroll tax purposes, and to align those records with the definition of "remuneration" in section 7 of the principal Act.

Clause 21 is a savings to clarify, for the avoidance of doubt, that nothing in section 7, which inserts section 9B into the principal Act (special provision for taxi drivers), affects the liability of any taxi driver to payroll tax which is outstanding on the coming into operation of this Act.

Clause 22 provides for commencement on 1 April 2018.

Thank you, Mr. Chairman.

The Chairman: Thank you, Honourable Member.

Any further speakers?

The Chair recognises the Honourable Grant Gibbons. You have the floor, Mr. Gibbons.

Hon. Dr. E. Grant Gibbons: Thank you, Mr. Chairman.

Clause 2, I believe it is, yes, clause 2. I am on page 3, right in the middle of the page on the definition of "profit-sharing scheme." And let me say that I think this issue of notional deemed remuneration has been something which has been needed to be tackled for a while, so I do not have a problem with that. But I would like to just drill down on this issue of "profit-sharing scheme" because I think there are going to be questions coming out of that revised definition.

And the new definition is: "'profit-sharing scheme' means a scheme or arrangement under which an employee or deemed employee in any way whatsoever shares his employer's profit, including by way of a dividend."

So, I think, Mr. Chairman, we sort of understand that business makes a profit during the year and in addition to the owners, they give a bonus to any of the employees, that would considered to be remuneration and caught as a . . . essentially under this particular Act.

Where I guess it gets a little bit more interesting is let us suppose—well, let us put a name on it—let us suppose you have got a BELCO employee who gets shares from BELCO as part of their remuneration. And during the year BELCO declares a dividend, which they do from time to time. Would that dividend be caught under this particular provision here?

[Inaudible interjection]

Hon. Dr. E. Grant Gibbons: Okay. If you could clarify that, okay?

Let us take another example. The Honourable Member says no. But I would like to, I think for the

record, we would like to hear it verbally. Let us take another example—

[Laughter]

Hon. Dr. E. Grant Gibbons: Well—

[Inaudible interjection]

Hon. Dr. E. Grant Gibbons: Oh, yeah. Let us take another example. You have got a small business, let us say it is a bakery, you have got a husband and wife who run it, they have got some employees and they pay each other what would be considered to be a reasonable salary for that business. At the end of the year they are both shareholders, they both own a thousand shares each, and they have a profit for the year and they declare a dividend at the end of the year. Is that dividend considered to be taxable under the Payroll Tax Act here? I am just trying to get an understanding of what the limits of this particular feature are.

I will stop there and maybe the Minister could explain that.

The Chairman: Any further speakers?

Honourable Member Furbert, you have the floor.

Hon. Wayne L. Furbert: The first one—BELCO—no, because the employee is not controlling the business.

The second one, yes, because the individual is controlling . . . it would seem to be the actual person that owns the business, so yes.

The Chairman: Any further speakers?

The Chair recognises the Honourable Member Grant Gibbons.

Hon. Dr. E. Grant Gibbons: Thank you, Mr. Chairman.

The answer to the first question was interesting because there is nothing in here which relates to control. So I think this is obviously going to be a policy approach, if I may ask that question. So, in other words, if the employee has no control and gets a dividend, then it seems to be—to contradict what is being said here—because if the employee gets a dividend and . . . it says "an employee or deemed employee in any way whatsoever shares his employer's profit," which he is doing by getting a dividend, then it seems to me that it is caught under this. So there is an issue of control which has now crept into this which, as far as I can see, is not in this definition.

So, perhaps, the Minister could answer that.

The Chairman: Any further speakers?

Junior Minister Furbert.

Hon. Wayne L. Furbert: Yes, thank you, Mr. Chairman.

I understand what the Honourable Member is saying. Introducing this we had long discussions within the Ministry with a whole slew of advisors and lawyers and everything else. There will be some guidelines coming out, as we mentioned, in our speech, that clearly lay out what is being caught. But based on our discussions, BELCO or the person who owns the shares in BELCO will not be caught.

But the person who owns that bakery . . . because that is where remuneration takes place. I pay myself a little salary, pay up a larger dividend. And that is what is happening with law firms and accounting firms. I pay myself $300,000; I pay a dividend of $1 million; and then they walk away free. So that person will be caught.

The Chairman: Any further speakers?

There appear to be none.

Junior Minister, do you want to continue?

Hon. Wayne L. Furbert: Yes, thank you.

And once the guidelines come out I am sure the Ministry and the Department of OTC will be having many meetings, Mr. Chairman—well, I will not say many—but we will be having enough meetings to try to inform people. Because the way people really do not understand what it is about, and I understand that, and they will be there to explain, plus the guidelines I am sure will be on their website as they put it out.

So, Mr. Chairman, I move the preamble be approved—sorry—I move clauses 1 through 22, I think it is.

The Chairman: Okay. It has been moved that clauses 1 through 22 be approved.

Are there any objections?

There appear to be none.

Approved.

[Motion carried: Clauses 1 through 22 passed.]

The Chairman: Continue.

Hon. Wayne L. Furbert: I move that the preamble be approved.

The Chairman: It has been moved that the preamble be approved.

Any objections to that?

There appear to be none.

Approved.

Hon. Wayne L. Furbert: I move that the Bill be reported to the House as printed.

The Chairman: It has been moved that the Bill be reported to the House as printed.

Are there any objections?

Approved.

[Motion carried: The Payroll Tax Amendment Act 2018 was considered by a Committee of the whole House and passed without amendment.]

House resumed at 3:45 pm

[Hon. Dennis P. Lister, Jr., Speaker, in the Chair]

REPORT OF COMMITTEE

PAYROLL TAX AMENDMENT ACT 2018

The Speaker: Good afternoon, Members.

Is there any objection to the reporting to the House of the Payroll Tax Amendment Act 2018?

No objections?

So moved.

We now move on to the next item on the Order Paper. And the next item is Order No. 5 and it is the second reading of the Partnership, Exempted Partnerships and Limited Partnership (Beneficial Ownership) Amendment Act 2018 in the name of the Minister of Finance, but I believe the Minister of Tourism and Economic Affairs is going to deliver it.

Hon. Jamahl S. Simmons: Yes, sir.

The Speaker: Okay, yes.

BILL

SECOND READING

PARTNERSHIP, EXEMPTED PARTNERSHIPS AND LIMITED PARTNERSHIP (BENEFICIAL OWNERSHIP) AMENDMENT ACT 2018

Hon. Jamahl S. Simmons: Yes, thank you, Mr. Speaker, and good afternoon.

The Speaker: Good afternoon.

Hon. Jamahl S. Simmons: And good afternoon colleagues.

I move that the Bill entitled the Partnership, Exempted Partnerships and Limited Partnership (Beneficial Ownership) Amendment Act 2018 be now read for the second time.

The Speaker: Continue.

Hon. Jamahl S. Simmons: Mr. Speaker, on 9 March 2018 the Partnership, Exempted Partnerships and Limited Partnership (Beneficial Ownership) Amendment Act 2018 was tabled in this Honourable House. I rise today to present this significant piece of legislation which will extend the establishment of Bermuda's Beneficial Ownership regime to partnerships registered under the Partnership Act 1902, the Limited Partnership Act 1883, and the Exempted Partnerships Act 1992—all of which I will simply refer to as "the principal Acts."

Mr. Speaker, Bermuda has a long-standing history of being a jurisdiction of choice for international businesses. In order to maintain our competitive standing we must continuously update our legislative framework to adapt to constant changes in market demands and other factors that impact our position. Such factors include making adjustments to keep pace with ever-evolving global standards set by the Financial Action Taskforce (commonly referred to as FATF) and the Organisation for Economic Cooperation and Development (referred to as the OECD).

As Honourable Members are aware, FATF issues recommendations designed to assist member and associate member jurisdictions with combating money laundering and terrorist financing, while the OECD sets standards for international cooperation and tax information sharing. Both FATF and OECD measure jurisdictional compliance through evaluations and assessments of a jurisdiction's regulatory framework as well as its effectiveness.

Honourable Members may recall that in November 2017 Bermuda amended the Companies Act 1981 and the Limited Liability Company Act 2016 as part of our initial efforts to ensure Bermuda's compliance with FATF and OECD guidelines for transparency regarding the beneficial ownership of legal persons. Those amendments apply to companies and limited liability companies (LLCs) organised under the Companies Act and the Limited Liability Company Act.

The Bill we are debating today will amend Bermuda's beneficial ownership framework with respect to partnerships.

Mr. Speaker, the Bill being debated today will amend the principal Acts in an effort to ensure Bermuda's compliance with FATF and OECD guidelines for transparency relating to the beneficial ownership of partnerships in Bermuda. These amendments are also intended to help meet commitments undertaken pursuant to the Exchange of Notes Agreement between the Government of Bermuda and the Government of the United Kingdom, which was executed in April 2016, which shall be referred to as "the UK Agreement." For ease of reference I will refer to the FATF and OECD standards and the requirements under the UK Agreement, collectively as "International Standards."

Mr. Speaker, the three primary underlying goals of the International Standards on Beneficial Ownership of Partnerships are to:

1. Establish transparency;
2. Deter and prevent the misuse of partnerships; and

3. Enhance the effectiveness of cooperation and information sharing amongst participating countries and law enforcement authorities.

As such, jurisdictions are required to ensure that adequate, accurate, and timely information on the beneficial ownership is available and can be accessed by competent authorities upon request. More specifically, the International Standards impose obligations on jurisdictions to establish appropriate regimes for collecting and maintaining information on the natural persons who ultimately own or control legal entities and legal arrangements, such as partnerships registered within their borders. Such persons are considered the beneficial owners of those partnerships.

Beneficial ownership information may be obtained and kept by the partnerships, but it must also be available to competent authorities in a timely fashion. In the case of the UK Agreement, this information must be held in a secure, central, electronic database or other similar arrangement.

Mr. Speaker, Bermuda is a forerunner in requiring information on persons who own or control partnerships registered in Bermuda. These requirements are embedded in various laws, regulations, and policies governing partnerships here on our Island. Disclosure of certain details related to beneficial owners is required during the initial formation process. The information collected is stored in a central registry that the Government of Bermuda has maintained for approximately 70 years.

Currently, the Bermuda Monetary Authority (BMA) functions as a gatekeeper regarding the application for formation of any partnership made under the Limited Partnership Act 1883 and the Exempted Partnership Act 1992. The BMA performs its gatekeeping functions by vetting and consenting to all persons who, in their capacity as general partners, will own or control any partnership interests or voting rights in such partnership at the time of formation.

While the requirements for vetting and consent generally enable the BMA to capture and maintain a significant level of beneficial ownership data in the central registry, legislative amendments are needed to make Bermuda's framework more closely aligned with the International Standards.

Mr. Speaker, the proposed Bill seeks to close the legislative gaps by extending the requirements regarding beneficial ownership to partnerships governed by the principal Acts unless expressly exempted. This Bill will amend the principal Acts as follows:

- A statutory definition for the term "beneficial owner" will be inserted to ensure there is legal certainty as to the persons who are considered the beneficial owners;
- Partnerships will be required to collect and hold specified information regarding their beneficial owners, maintain registers which contain accurate and up-to-date information regarding the beneficial owners, and file initial and updated information regarding beneficial ownership with the BMA to be maintained in the central registry.
- Protections against certain disclosures of beneficial ownership information will be set forth, including protection against any disclosure pursuant to a request made under the Public Access to Information Act 2010; and
- Sanctions for non-compliance, along with other provisions to aid in implementation and enforcement will be inserted into the principal Acts.

Mr. Speaker, there are obvious reputational and economic risks to Bermuda if we do not strengthen our existing requirements to achieve the requisite level of transparency for partnerships. It is imperative that Bermuda's legislative framework can successfully withstand the scrutiny of OECD and FATF assessors, while also positioning the jurisdiction to meet its commitments under the UK Agreement.

Mr. Speaker, this Bill will complement the Beneficial Ownership amendments made to the Companies Act 1981 and Limited Liability Company Act 2016, and will help Bermuda to further strengthen our beneficial ownership regime and address recommendations made by OECD assessors following Bermuda's assessment in 2016. In addition, this Bill will further enhance our legislative framework prior to the upcoming review later this year under the UK Agreement and the impending FATF Mutual Evaluation.

This Bill in tandem with the previously passed Beneficial Ownership legislation will strengthen our position to enable Bermuda to achieve ratings on Beneficial Ownership Standards that are similar to or better than competitive jurisdictions. As such, the benefits to Bermuda of implementing the proposed amendments are clear.

And Mr. Speaker, before I close, just for the information of Members, I will be doing several floor amendments to the Bill in the Committee phase, with the [Chairman's] indulgence.

Mr. Speaker, in closing, I would like to thank the Members of the private sector for their valuable feedback and collaboration with the Government during the policy consideration and drafting processes for this Bill. I would like to thank the technical officers within the Ministry of Finance Headquarters, the Registrar of Companies, the BMA, and the National Anti-Money Laundering Committee for their contributions to this initiative. Finally, I would like to acknowledge the tireless effort and dedication of the Attorney General's Chambers and the Business Development Unit within my Ministry (the Ministry of Economic Development and Tourism) in completing this initiative. Thank you all very much for your hard work.

I now invite other Members to participate.

The Speaker: Thank you, Minister.

Does any other Honourable Member wish to speak?

We recognise the Honourable Member from constituency 22. Honourable Member Gibbons, you have the floor.

Hon. Dr. E. Grant Gibbons: Thank you, Mr. Speaker.

Mr. Speaker, I actually was not going to lead on this particular piece of legislation. My honourable colleague who is coming into the House now had intended to do so—the Honourable Member Leah Scott.

The Speaker: You are pitching.

Hon. Dr. E. Grant Gibbons: Mr. Speaker, I am pitching in.

The Speaker: Good.

Hon. Dr. E. Grant Gibbons: I am being transparent about it.

The Speaker: There you go. Okay.

Hon. Dr. E. Grant Gibbons: Mr. Speaker, obviously, having been involved with changes to the Partnership Act, the Limited Partnerships Act, and Exempted Partnerships Act over a period of time I think we all recognised that these changes were going to be necessary to be able to establish a Beneficial Ownership Register. And it is clearly important for us as we face the assessment by OECD and CFATF and others.

The issues here are reasonably straightforward. They are, obviously, going to involve more work for those that establish different types of partnerships in Bermuda and, obviously, those similar kinds of provisions are going to have to be met by those establishing partnerships presumably in other places that compete with us as well.

I notice my colleague has come back now, but one of the questions . . . and I will ask it now. I noticed that the definition of "beneficial owner" is now 25 per cent in terms of ownership, whereas under the Companies Act the beneficial owner threshold was 10 per cent. Twenty-five per cent is more the standard international threshold for ownership. Obviously, the BMA was taking a slightly more aggressive approach to it, but if the Honourable Member could speak to that when he gets a chance to answer questions I would appreciate it. But we on this side support the legislation and I will sit and let my honourable colleague comment further.

Thank you.

The Speaker: Thank you, Honourable Member.

I recognise the Honourable Member from constituency 30. Deputy Opposition Leader, you have the floor.

Ms. Leah K. Scott: Thank you, Mr. Speaker.

Thank you to the Minister for bringing this legislation forward. However, Mr. Speaker, I have to say that if I never hear the letters OECD or FATF again it would be far too soon.

I continue to be frustrated with these types of legislation while I understand that it is necessary and I appreciate that we have to do it. But as I read in the House, I think, on Monday, I would like to know how many partnerships in Bermuda have actually been guilty of money laundering. You know all the money laundering is going on in the US and not in the offshore jurisdictions, but they continue to regulate us to the degree that at some point we are not going to be able to conduct business in Bermuda as far as I am concerned.

When I first read this legislation the first thing that I thought about was Mr. and Mrs. Bermuda, because a partnership does not necessarily have to be a formalised arrangement. So I was concerned that the requirements that they are imposing would be requirements that local people would have to meet. And I have met with the technical officer this afternoon and she has informed me that local people will not be affected by this legislation, however, there will be some legislation coming in respect of locals and their partnerships.

Some of the questions I have are kind of technical, so I will just kind of go through my general feelings and then ask more of them when we go into Committee.

The Speaker: Mm-hmm.

Ms. Leah K. Scott: One of the things, again, just picking up where my colleague talked about the 25 per cent ownership, what are you going to do when you have a partnership that has more than four people and you are not going to have anybody that is going to control more than 25 per cent?

There were just some general things that need to be changed. On page 4 of the draft legislation "'control by other means' includes the right to appoint or remove a majority of the general partners"—well, a general partner is not appointed or removed. You either are or you are not a general partner. So is that going to be addressed? Are they planning on amending that?

It appears, just in going through the legislation that the legislation is trying to apply corporate concepts to a partnership. And I do not think that you can do that really well. So, you know, just in terms of "control" that is a corporate concept, it is not necessarily applicable to a partnership.

I also think that it would probably have been better if the legislation had been drafted separately for each particular piece of legislation and not, sort of, an aggregated piece of legislation. But that is just how . . . that is just my feeling.

As I said, when I went through the legislation most of the thoughts that I had were pertaining to how our locals were going to be able to apply this. And the other questions that I have are kind of more technical and we can actually go through those when we get into Committee.

Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

Does any other Honourable Member wish to speak?

No other Honourable Member at this time?

Minister, you can wrap up and take us on into Committee.

Hon. Jamahl S. Simmons: Thank you, Mr. Speaker.

Just to answer some of the questions that have been posed to us, I think it is important to note that these recommendations did come out of our preparation for the assessment. We have had extensive discussions with the private sector to ensure that their voices are heard and they have been a part of the process, which is part of the reason why these floor amendments will be coming during the Committee stage.

We did receive a request for a specific exemption for overseas or permanent partnerships formed under the Overseas Partnerships Act 1995, and there is a similar exemption in the beneficial ownership legislation for permanent companies. We declined to include a specific exemption for overseas partnerships as the Act is only applicable to partnerships formed under the Partnership Act 1902, the Limited Partnership Act 1883, and the Exempted Partnerships Act 1992.

In terms of local partnerships the impact is expected to be minimal. Currently there are no local limited partnerships registered with the Registrar of Companies. Local general partnerships register with the Office of the Tax Commissioner providing beneficial ownership information for payroll tax purposes.

When the Registrar or the competent authorities are looking to obtain this information, the information is requested and received from the Office of the Tax Commissioner.

And with those brief remarks, Mr. Speaker . . . I know the opposite Member mentioned about money laundering in Bermuda and I think that this is something that we recognise, based on the assessments and based on the forthcoming assessment and the recommendations, that we have to continue to make sure that we are leaders in this space and not allow ourselves to fall behind.

Thank you, Mr. Speaker, I now move that the Bill be committed.

The Speaker: Thank you, Minister.

Deputy?

House in Committee at 4:01 pm

[Hon. Derrick V. Burgess, Sr., Chairman]

COMMITTEE ON BILL

PARTNERSHIP, EXEMPTED PARTNERSHIPS AND LIMITED PARTNERSHIP (BENEFICIAL OWNERSHIP) AMENDMENT ACT 2018

The Chairman: Honourable Members, we are now in Committee of the whole House for further consideration of the Bill entitled Partnership, Exempted Partnerships and Limited Partnership (Beneficial Ownership) Amendment Act 2018.

Minister, you have the floor.

Hon. Jamahl S. Simmons: Thank you, Mr. Chairman.

I now move clauses 1 through 3.

The Chairman: Before you start, can we get the copies of the amendments?

Hon. Jamahl S. Simmons: Oh, forgive me, Mr. Chairman.

The Chairman: Thank you, Minister.

Hon. Jamahl S. Simmons: Thank you, Mr. Chairman.

I move clauses 1 through 3.

The Chairman: Any objection to moving clauses 1 through 3?

There appear to be none.

Continue, Minister.

Hon. Jamahl S. Simmons: Mr. Chairman, clause 1 provides that this Bill shall be cited as the Partnership, Exempted Partnerships and Limited Partnership (Beneficial Ownership) Amendment Act 2018.

Clauses 2 and 3 provide for amendments to the Partnership Act 1902.

Clause 2 amends section 1A of the Partnership Act 1902 to include a definition for the Bermuda Monetary Authority.

Clause 3 inserts new sections 4M to 4ZE in the Partnership Act 1902 as follows:

- Section 4M provides for the definitions of terms that appear within new sections 4M to 4ZE, aiding in the interpretation of the provisions included therein.
- Section 4N (under clause 3) applies the provisions of sections 4M through 4ZE to all partnerships to which the Partnership Act 1902, the Limited Partnership Act 1883, and the Exempted Partnerships Act 1992 apply, except those partnerships and their subsidiaries which are specifically—*specifically*—exempted in this section. They are: (a) certain

listed partnerships; (b) specified investment vehicles; (c) financial institutions as defined in the Third Schedule to the Bermuda Monetary Act 1969; (d) any other type of company or entity that is exempted by Ministerial order. Section 4N also includes the definition of the term "subsidiary" for purposes of sections 4M through 4ZE.

- Section 4O defines the term "beneficial owner" and includes further definitions to aid in the interpretation of that term as used in other provisions in sections 4M through 4ZE.
- Section 4P requires partnerships subject to sections 4M through 4ZE to take reasonable steps to identify beneficial owners and all "relevant legal entities" as that term is defined in section 4M.
- In line with section 4P, section 4Q requires partnerships to issue a notice in writing requesting certain information to any person: (a) which has been identified as a beneficial owner or relevant legal entity; or (b) which the company has reasonable cause to believe is a beneficial owner or relevant legal entity. Section 4Q provides further requirements and conditions in relation to the notice, including circumstances where the issuance of a notice is not required.
- Section 4R requires partnerships subject to sections 4M through 4ZE to: (a) establish and maintain a beneficial ownership register; (b) enter in the register the minimum required information set forth in section 4R(2) in relation to each beneficial owner and relevant legal entity; and (c) keep the register at the registered office of the partnership or such other place in Bermuda which has been disclosed to the Registrar and which is convenient for inspection by the Registrar.
- Section 4S requires that the beneficial ownership register be updated as soon as practicable, but not later than 14 days after a partnership is made aware of and has confirmed the details related to: (a) any change in beneficial owner; or (b) any change in the minimum required information related to any beneficial owner or relevant legal entity included on the register.

[Electronic device interruption]

Hon. Jamahl S. Simmons: Mr. Speaker, I guess we got a little musical accompaniment there.

[Inaudible interjection]

Hon. Jamahl S. Simmons: Well, I do like to hit a note now and then. My singing is a little bit more . . . selective audiences.

- Section 4T addresses legal disputes involving the ownership of any interest, voting rights or other interests in a partnership to which sections 4M through 4ZE apply, and which is in the process of being adjudicated by a court. In such instances section 4T provides that no change shall be recorded in the beneficial ownership register or filed with the Bermuda Monetary Authority prior to determination of the matter, unless ordered by the court.
- Section 4U grants authority to the court to rectify a beneficial ownership register when necessary.
- Section 4V requires companies to file beneficial ownership information with the Bermuda Monetary Authority at specified times. Such filing is required for initial formation or continuation into Bermuda or conversion in order to update information previously filed which has since changed.
- Section 4W permits partnerships to which 4M through 4ZE apply to either impose restrictions or apply to a court for an order imposing restrictions on partner interests held by persons who fail to provide the required information.
- Section 4X empowers the Registrar to obtain information and reports for purposes of sections 4M to 4ZE.
- Section 4Y provides for offences for purposes of sections 4M to 4ZE.
- Section 4Z provides for sections 4M through 4ZE to have effect notwithstanding applicable obligations of confidentiality, subject to section 4ZA.
- Section 4ZA protects against any disclosure of information that is protected by legal privilege.
- Section 4ZB exempts beneficial information from disclosure pursuant to any such information made under the Public Access to Information Act 2010.
- Section 4ZC provides that sections 4M through 4ZE do not authorise disclosure of personal information in contravention of the Personal Information Protection Act 2016.
- Section 4ZD provides for the effect of sections 4M to 4ZE in relation to other statutory provisions concerning beneficial ownerships.
- Section 4ZE sets forth the methods of delivery and timing of receipt of any notice required to be given in accordance with sections 4M through 4ZE.

Thank you, Mr. Chairman.

The Chairman: Thank you, Honourable Minister.

Any further speakers?

The Chair recognises the Honourable Member Leah Scott from constituency 30.

Ms. Leah K. Scott: Thank you, Mr. Chairman.

I will start with section 4O "control by other means"—I am sorry, page 4 of the draft legislation.

The Chairman: Page 4. Thank you.

Ms. Leah K. Scott: Yes, about a quarter of the way down the page.

The Chairman: Mm-hmm.

Ms. Leah K. Scott: "'Control by other means' includes the right to appoint or remove a majority of the general partners of a partnership and the exercise of control over the partnership by any means other than by control by ownership of any interest."

As I said, a general partner is not appointed or removed. They either are or they are not. So, would the wording be amended to correctly reflect how: (1) a general partner gets to be a general partner; and (2) this amendment will affect this Partnership Act, but you cannot have the same wording in the Limited Partnership Act? Generally, a limited partnership only has a general partner, not a group of general partners. And I realise they are trying to aggregate it into all the pieces of legislation, but I do not know that it makes sense.

Clause . . . sorry, on page 6, clause 4R(3) "The beneficial ownership register shall be kept at the registered office of the partnership." Partnerships generally do not have registered offices. It would be the registered office of the corporate service provider or the entity that is providing services to them, but a partnership does not have a registered office.

Clause . . . sorry, page 8, clause 4V (as in Victor) (2)—and I did go through this with the technical officer, but I just wanted to raise it again—"Where a partnership engages a corporate service provider which holds an unlimited licence" and, as far as I know, the BMA has not issued any unlimited licences and I do not know that they are going to for corporate service providers. But in any event, an entity that does have an unlimited licence actually performs a vetting process itself of any beneficial owners, so my understanding is that because they do their own vetting they have 14 days after the partnership is incorporated to send to the BMA notification of who the beneficial owners are.

So I understand that, but I am just wondering if there should also be . . . and I understand that when there is a corporate service provider that has a limited licence, that because the BMA does the vetting, they do not have the same requirement. But I am just wondering if there should be some distinction because I did not recognise that, you know, if you have a limited licence you do not have to do this, [but] if you have [an] unlimited licence you have to do that, just so that people can clearly understand what they have to do or what they do not have to do.

On page 9, clause 4W (as in William) and, again, I have been through this with the technical officer, but I just want to raise it: "Where subsection (1) applies"—and subsection (1) refers to notification to someone in the partnership—and it talks about in (2)(a) where if a "partnership agreement so provides, issue a warning notice to that person advising of its intention to impose restrictions on that person's interest." And while I recognise that these are for formal partnerships and, in general, there will be a partnership agreement in place, to impose a restriction on the person's interest because they are doing what they are—and I get it—they are not doing what they are supposed to do. But with a partnership you are restricting their interest but they still have the full burden of the liabilities of the partnership. And I understand that it is because they are not doing what they are supposed to do, but is that fair? Can there be . . . you know, can it be moderated or a bit more measured?

And in clause 4W(2)(b) "if its partnership agreement so provides, issue a decision notice to a person advising of the imposition of restrictions on that person's interests, provided that such decision notice shall not take effect until at least 30 days following the date of receipt of any such decision notice."

And then if you look at . . . where is it? Page 13, [clause 4ZE] (4) it says: "For the purposes of sections 4M to 4ZE, a document shall be taken to have been received by the person in relation to whom it was sent"—and then in (4)(b)(i): "seven working days after despatch, if posted to an address within Bermuda; and (ii) fifteen working days after despatch."

And my concern is that the assumption is that because you have mailed something the other person has received it and that is not necessarily . . . I do not think that you can deem receipt. I mean, you know, we had the problem with parking tickets where people were being mailed summonses and they were saying, *Well, I didn't get the summons, so I'm not showing up to court.* So I do not know that deeming dispatch or assuming that somebody gets the notice is fair, so maybe they would consider . . . I mean if you are sending out a notice, there should be some sort of, *Please confirm the receipt, please return a copy of this,* or something that indicates that the person actually has received it.

On page 10, section 4X (as in X-ray), the power to obtain information and reports. Now, this requires the partnership to obtain certain information. If you are a limited partner, your interest is limited to whatever your income is going to be in the partnership, and the general partner would have the administrative duties. Limited partners, generally, are not going to have access to the information that is required, and if they do have access to it or become exposed to that information, then does that present a liability for

the limited partner? And that is something that needs to be considered.

I think the penalties are reasonable. And then on page 12, Application of Public Access to Information [Act 2010], I am just concerned that the clauses are just not as beefed up as they could be. In other jurisdictions the clauses are, in terms of access to beneficial [ownership] information, like Cayman and the BVI have better clauses. So I am just wondering if at some point in time the application to Public Access to Information can be amended so that it provides greater security in terms of what information is going out, who it is going to, and who controls it.

And I think those are all my questions. That is it. Thank you, Mr. Chairman.

The Chairman: Thank you, Honourable Member.

Any further speakers?

The Chair recognises the Minister.

You have the floor, Minister.

Hon. Jamahl S. Simmons: Thank you, Mr. Chairman.

Just in terms of the issue raised by the Shadow Minister, I think that many of the points she has made we can take under advisement. And as this will be an ongoing process of collaboration with our business partners we welcome the suggestions, we welcome the input, because we do recognise there will be more changes to this Bill in the future and we want to make sure that we are leading and not just holding pat on what we should be doing.

Now, in terms of the definition of "control by other means" this will be considered. That point, specifically, is one that we will consider. We think there is validity to it and we will take a look at that.

In terms of "restriction on partnership interest" our position is that this is fair because partnerships must request the beneficial ownership information under this Act. The partnership must have measures that it can take in order to be able to justify its legal requirements. The standard is there and they have to ensure that they follow it.

In terms of the unlimited licence of the CSP we will take that point under consideration as well. We do not anticipate revisions will be necessary, but we do take that point.

And in terms of the issue raised about the "registered office" we will take a look at that as well and see if there is a way that we can move forward with that.

Thank you, Mr. Chairman.

The Chairman: Thank you.

Any further speakers?

Minister, continue.

Hon. Jamahl S. Simmons: Thank you, Mr. Chairman.

I now would like to move clauses 4 through 8.

Hon. Dr. E. Grant Gibbons: Mr. Chairman, yes, I was going to say there are some amendments here for clause 3.

Hon. Jamahl S. Simmons: Would you like to do the amendments?

The Chairman: Yes.

Hon. Jamahl S. Simmons: All right.

Mr. Chairman, I would like to move the following amendments to clause 3.

The Chairman: Mm-hmm.

AMENDMENT TO CLAUSE 3

Hon. Jamahl S. Simmons: That the Partnership, Exempted Partnerships and Limited Partnership (Beneficial Ownership) Amendment Bill 2018 be amended as follows:

Insert after clause 3 . . . clause 3A is added as follows, 3A "The Partnership Act 1902 is amended by inserting after section 44 the following—

"Keeping of records of account and beneficial ownership register after dissolution'—

"44A(1) When a partnership has been dissolved, the partner or partners or such other person as may be appointed to wind up the affairs of the partnership (the 'responsible person') shall—

(a) keep the records of account of the partnership referred to in section 29A which are in existence at the date of dissolution of the partnership, for five years from the end of the period to which such records of account relate;

(b) keep the beneficial ownership register referred to in section 4R which is in existence at the date of the dissolution of the partnership for five years from the date of the conclusion of the winding up of the affairs of the partnership;

(c) keep the books and papers of the responsible person relating to the winding up of the affairs of the partnership for five years from the date of the conclusion of the winding up of the affairs of the partnership;

(d) where applicable, keep the records specified in regulation 15 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 that are in existence at the date of the dissolution of the partnership in relation to the partnership for the period specified in regulation 15.

"(2) Where a partnership has been dissolved, the partners at the date of the dissolution of the partnership shall ensure that the beneficial ownership register of the partnership referred to in section 4R of the Partnership Act 1902 that is in existence on that date

shall be kept for a minimum of five years from the date of the dissolution of the partnership.

"(3) In this section, 'responsible person' means—

(a) the partner or partners responsible for the winding up of the affairs of the partnership; or

(b) such other person appointed to wind up the affairs of the partnership,

"and, where the responsible person is a person referred to in paragraph (b), that person, for the purposes of paragraphs (a) to (d) of subsection (1), shall be required to keep, for the period specified in each of those paragraphs, the records of account, beneficial ownership register, books, papers and records that have been provided to him."

Thank you, Mr. Chairman.

The Chairman: Any further speakers?

The Chair recognises the Honourable Member Leah Scott.

Ms. Leah K. Scott: Thank you, Mr. Chairman.

We have no objection to those amendments. They are reasonable and we are required to keep records, so I have no problem with them.

Thank you.

The Chairman: Continue.

Hon. Jamahl S. Simmons: Thank you, Mr. Chairman.

I move that clauses 1 through 3 be approved as amended.

The Chairman: It has been moved that clauses 1 through 3, as amended, be approved.

Are there any objections?

No objections.

Continue, Minister.

[Motion carried: Clauses 1 through 3, as amended, passed.]

Hon. Jamahl S. Simmons: Thank you, Mr. Chairman.

I move that clauses 4 through 8 be now moved.

[Inaudible interjection]

Hon. Jamahl S. Simmons: Okay, that is fine. We will just move clause 4. May I move that clause 4 be moved?

The Chairman: Is there any objection to clause 4 being moved?

No objections.

Continue.

Hon. Jamahl S. Simmons: Thank you, Mr. Chairman.

Clause 4 inserts section 13G into the Exempted Partnerships Act 1992. This amendment makes clear the application of sections 4M through 4ZE of the Partnership Act 1902, which sets forth the requirements with respect to beneficial ownership for exempted partnerships.

And there is going to be an Amendment to clause 4.

The Chairman: Mm-hmm.

AMENDMENT TO CLAUSE 4

Hon. Jamahl S. Simmons: And I move that the following be amended to clause 4:

Clause 4 is amended by renumbering the existing provisions of subsection (1) and adding after that subsection the following: "(2) The Exempted Partnerships Act 1992 is amended by inserting after section 14 the following—

"Keeping of records of account and beneficial ownership register after dissolution

"14A (1) When an exempted partnership has been dissolved, the partner or partners or such other person as may be appointed to wind up the affairs of the exempted partnership (the 'responsible person') shall—

(a) keep the records of account of the exempted partnership referred to in section 14 which are in existence at the date of dissolution of the exempted partnership relating to the exempted partnership, for five years from the end of the period to which such records of account relate;

(b) keep the beneficial ownership register referred to in section 4R of the Partnership Act 1902 which is in existence at the date of dissolution of the exempted partnership for five years from the date of the conclusion of the winding up of the affairs of the exempted partnership;

(c) keep the books and papers of the responsible person relating to the winding up of the affairs of the exempted partnership for five years from the date of the conclusion of the winding up of the affairs of the exempted partnership;

(d) where applicable, keep the records specified in regulation 15 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 that are in existence at the date of dissolution of the exempted partnership, in relation to the exempted partnership for the period specified in regulation 15.

"(2) Where the certificate of an exempted partnership is cancelled, the partners at the date when such certificate is cancelled shall ensure that the beneficial ownership register of the partnership referred to

in section 4R of the Partnership Act 1902 that is in existence on that date shall be kept for a minimum of five years from the date of the certificate of cancellation.

"(3) In this section, 'responsible person' means—

(a) the partner or partners responsible for the winding up of the affairs of the exempted partnership; or

(b) such other person appointed to wind up the affairs of the exempted partnership,

"and, where the responsible person is a person referred to in paragraph (b), that person, for the purposes of paragraphs (a) to (d) of subsection (1), shall be required to keep, for the period specified in each of those paragraphs, the records of account, beneficial ownership register, books, papers and records that have been provided to him."

Thank you, Mr. Chairman.

The Chairman: Thank you.

Any further speakers?

The Chair recognises the Honourable Leah Scott.

Ms. Leah K. Scott: Thank you, Mr. Chairman.

Again, we have no objection to these amendments. Thank you.

The Chairman: Okay. Do you want to move it?

Hon. Jamahl S. Simmons: Thank you, Mr. Chairman.

I move that clause 4 be moved as amended.

The Chairman: Thank you.

It has been moved that clause 4 be approved as amended.

Any objections?

There are no objections.

Agreed to.

[Motion carried: Clause 4, as amended, passed.]

Hon. Jamahl S. Simmons: Thank you, Mr. Chairman.

I now move that clause 5 be moved.

The Chairman: Continue.

Hon. Jamahl S. Simmons: Thank you, Mr. Chairman.

Clause 5 inserts section 8AA into the Limited Partnership Act 1883. This amendment makes clear the application of sections 4M through 4ZE of the Partnership Act 1902, which set forth the requirements with respect to beneficial ownership for limited partnerships.

And with your permission, Mr. Chairman, I would like to move an amendment to that clause.

The Chairman: Yes.

AMENDMENT TO CLAUSE 5

Hon. Jamahl S. Simmons: Clause 5 is amended by renumbering the existing provision as subsection (1) and adding after that subsection the following: "(2) The Limited Partnership Act 1883 is amended by inserting after section 9A the following—

"Keeping of records of account and beneficial ownership register after dissolution

"9B(1) When a limited partnership has been dissolved the partner or partners or such other person as may be appointed to wind up the affairs of the limited partnership (the 'responsible person') shall—

(a) keep the records of account of the limited partnership referred to in section 9A which are in existence at the date of dissolution of the limited partnership, relating to the limited partnership for five years from the end of the period to which such records of account relate;

(b) keep the beneficial ownership register referred to in section 4R of the Partnership Act 1902 which is in existence at the date of dissolution of the limited partnership for five years from the date of the conclusion of the winding up of the affairs of the limited partnership;

(c) keep the books and papers of the responsible person relating to the winding up of the affairs of the limited partnership, for five years from the date of the conclusion of the winding up of the affairs of the limited partnership;

(d) where applicable, keep the records specified in regulation 15 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 that are in existence at the date of dissolution of the limited partnership in relation to the limited partnership for the period specified in regulation 15.

"(2) Where the certificate of a limited partnership is cancelled, the general partners at the date when such certificate is cancelled shall ensure that the beneficial ownership register of the limited partnership referred to in section 4R of the Partnership Act 1902 that is in existence on that date shall be kept for a minimum of five years from the date of the certificate of cancellation.

"(3) In this section, 'responsible person' means—

(a) the partner or partners responsible for the winding up of the affairs of the limited partnership; or

(b) such other person appointed to wind up the affairs of the limited partnership,

"and, where the responsible person is a person referred to in paragraph (b), that person, for the purposes of paragraphs (a) to (d) of subsection (1), shall be required to keep, for the period specified in each of those paragraphs, the records of account, beneficial

ownership register, books, papers and records that have been provided to him."

Thank you, Mr. Chairman.

The Chairman: Thank you, Honourable Minister.

The Chair recognises the Honourable Member Leah Scott.

Ms. Leah K. Scott: Thank you, Mr. Chairman.

As with the previous two amendments, we have no objection.

Thank you.

The Chairman: Thank you.

Hon. Jamahl S. Simmons: Thank you, Mr. Chairman.

I move that clause 5 be moved as amended.

The Chairman: It has been moved that clause 5 be approved as amended.

Any objections?

No objections.

Agreed to.

[Motion carried: Clause 5, as amended, passed.]

Hon. Jamahl S. Simmons: Thank you, Mr. Chairman.

I would like to move that clauses 6 through 8 now be moved.

The Chairman: Continue.

Hon. Jamahl S. Simmons: Thank you, Mr. Chairman.

Clause 6 provides for savings. This clause provides that a new register for the purposes of sections 4M to 4ZE is not required if a partnership, an exempted partnership or a limited partnership already has a register in which it keeps updated and current beneficial ownership information. [This clause also] preserves requirements relating to submission of information to the Bermuda Monetary Authority at the time of any application for formation or continuation of a partnership, an exempted partnership or a limited partnership in Bermuda.

Clause 7 provides for transitional matters during the implementation of this Act.

Clause 8 provides for commencement of this Act. Thank you, Mr. Chairman.

The Chairman: Thank you, Honourable Member.

Any further speakers?

Continue, I am sorry.

Ms. Leah K. Scott: That is okay. Thank you, Mr. Chairman.

Just a question on section . . . on page 15, [clause] 6(2). So a partnership, if it already has a beneficial [ownership] register, they do not have to establish a new one. If they do not have one, then this legislation requires them to have one going forward. And is there a time . . . I know that there is a six-month transitional . . . I think it is a six-month transitional clause. If they are not able to do it within that six months, are they able to get an extension? Or what are the consequences if they do not do it within that time?

The Chairman: Any further speakers?

Minister?

Hon. Jamahl S. Simmons: Thank you.

I think that it is important for us to begin the process and continue the process of informing our companies in Bermuda of their responsibilities under this Act. I think that what we will do is push that and we take under advisement any suggestions in terms of ensuring that this does become completed 100 per cent as opposed to partially.

Thank you, Mr. Chairman.

The Chairman: Any further speakers?

Minister, carry on.

Hon. Jamahl S. Simmons: Thank you, Mr. Chairman.

I move that clauses 6 through 8 now be approved.

The Chairman: It has been moved that clauses 6 through 8 be approved.

Are there any objections?

There appear to be none.

Agreed to.

[Motion carried: Clauses 6 through 8 passed.]

Hon. Jamahl S. Simmons: Okay.

Mr. Chairman, I move that the Bill be reported to the House as amended.

The Deputy Clerk: The preamble.

The Chairman: You have to move the preamble.

Hon. Jamahl S. Simmons: Forgive me. I move that the preamble now be approved.

The Chairman: It has been moved that the preamble be approved.

Are there any objections?

There appear to be none.

Approved.

Hon. Jamahl S. Simmons: I move that the Bill be reported to the House as amended.

The Chairman: It has been moved that the Bill be reported to the House as amended.

Any objections?

No objections.

Agreed to.

[Motion carried: The Partnership, Exempted Partnerships and Limited Partnership (Beneficial Ownership) Amendment Act 2018 was considered by a Committee of the whole House and passed as amended.]

House resumed at 4:31 pm

[Hon. Dennis P. Lister, Jr., Speaker, in the Chair]

REPORT OF COMMITTEE

PARTNERSHIP, EXEMPTED PARTNERSHIPS AND LIMITED PARTNERSHIP (BENEFICIAL OWNERSHIP) AMENDMENT ACT 2018

The Speaker: Members, are there any objections to the Partnership, Exempted Partnerships and Limited Partnership (Beneficial Ownership) Amendment Act 2018 being reported to the House as amended?

No objections.

It has now been so moved.

The Speaker: Members, earlier in the day I had asked for the House's indulgence when we were on an earlier matter, item (n) on our Order Paper, which is Personal Explanations. I had asked that we skip over that at that time and wait until a later part of the day for it to be dealt with. I would like to take this opportunity, with the indulgence of the House, to allow the Personal Explanation to be given at this point.

The Member is present. I want to remind Members that under Personal Explanations . . . the Member who gives that explanation has to have had it cleared by the Speaker first, which means the Speaker has seen what is to be read, and the Member has to stick to that text without wavering from it to any degree. And also the fact that the Speaker has given consent to it, I expect the Members to respect it to be read as a personal explanation without any interruption, without any debate in between, and if there are matters that Members wish to take issue with, they can do that at another time on the Order Paper today, which comes at the end of the day. But during this period the Member who gets on his feet will have the opportunity to read what has been agreed, and I ask Members to respect that.

Member?

PERSONAL EXPLANATION

LAHEY CLINIC LAWSUIT

Hon. Trevor G. Moniz: Thank you. Thank you, Mr. Speaker.

Mr. Speaker, I rise to give a personal explanation concerning the events of last Friday.

Firstly, I take this opportunity to unreservedly apologise for any disregard which I showed toward your authority as Speaker. With your permission I would like to explain why I made the points I made and to correct some erroneous statements that went unchallenged as a result of my absence.

The Speaker: Continue.

Hon. Trevor G. Moniz: Thank you, Mr. Speaker.

Any suggestion that I somehow orchestrated my removal from the House is ridiculous. I intend to confront the allegations made against me head-on.

Mr. Speaker, you and I have served honourably in this House together for the last 25 years. I will not stand idly by while my integrity, and, indeed, the integrity of the whole House, is undermined.

Mr. Speaker, I left the House immediately when you asked me to do so. It was insinuated that I, or others at my direction, destroyed documents relating to the Lahey lawsuit. Let me categorically state that this is false. No documents of any value were shredded during my time as Attorney General, either by me or at my direction.

I have no idea why anyone would allege that I was shredding documents in a case which I was supporting. Relevant files were forwarded to Cooley LLP for storage on behalf of the Government of Bermuda, much of it in electronic format. As Members will appreciate, we are living in an electronic age where documents are routinely stored and accessed electronically. My own concerns for the safe custody of sensitive material led me to the decision to entrust these files to Cooley. I acted in a way that I felt would maintain the integrity of these investigations and to protect the underlying evidence that supported them.

Mr. Speaker, last year there was a leak from Chambers of highly sensitive correspondence. It is alleged that I breached the Mutual Legal Assistance Treaty between Bermuda and the USA. This is false. There never was any breach of the treaty. The US Department of Justice did write to us on the 15th February 2017. However, let me be clear, when I was Attorney General neither I nor any lawyer on behalf of the Government of Bermuda used material from a criminal investigation to support the proceedings. Everything in the Lahey civil complaint was sourced from locally available evidence owned or maintained by the Government of Bermuda. I responded to the Department of Justice by a letter sent the very next day, 16 February 2017. The Department of Justice responded immediately as follows, they said:

"I am in receipt of the Attorney General's letter. Please thank the Attorney General for his prompt response. Because of the letter I do not think we need to have a telephone conference call. I have forwarded the letter to the Assistant US Attorney in Boston and my supervisors here. I think this letter addresses the

concerns raised by the Assistant US Attorney and our office."

Mr. Speaker, you have had sight of the full chain of correspondence, and I am sure you agree that the treaty concerns were immediately dealt with.

Mr. Speaker, it was stated that the cost of the Lahey lawsuit would reach $4 million. It was stated that I approved the payment of $3 million, insinuating that this was all earmarked for the Lahey case. This is not true. I do not know what the final cost will be as I have been out of office since July of last year. However, before the 2017 General Election, Cabinet had authorised up to $2 million for payment to Cooley in support of a comprehensive programme of civil litigation and recovery of the proceeds of crime. This programme involved 12 separate cases. The entire programme was paid out of the Confiscated Assets Fund. This fund was set up as part of Bermuda's efforts to deprive criminals of their ill-gotten gains. Money from the fund can be used for law enforcement purposes, but cannot be used for general Government expenditure.

Mr. Speaker, some have alleged that the Lahey case was never very strong. Let me just reiterate what I said last week. As Attorney General I made the decision to issue proceedings, with the previous Cabinet's blessing, following an exhaustive investigation. Throughout the entire process I acted on the basis of legal advice and in the best interests of the community.

Finally, Mr. Speaker, this is a fundamental point: So long as there is a politically appointed Attorney General, criminal prosecutions in Bermuda are the responsibility of the Director of Public Prosecutions. However, it is the job of the Attorney General to protect the legal interests of the Government.

Let me be as emphatic as I can be about a specific point before it is raised. At no point was I ever involved in any operational or investigative decision by the Bermuda Police Service or in any charging decision by the DPP. In addition, the allegation that I have seen the former Member's bank accounts or other personal files is absurd and untrue.

Mr. Speaker, I thank you for this opportunity to set the record straight.

The Speaker: Thank you.

Thank you, Members of the House for your indulgence.

We will now move on to [Order] No. 6 on the Order Paper, which is the second reading of the Municipalities Amendment Act 2018 in the name of the Minister for Home Affairs.

Honourable Minister Brown . . . one sec, just let your Members—

Hon. Walton Brown: Scurry about.

The Speaker: Good.

BILL

SECOND READING

MUNICIPALITIES AMENDMENT ACT 2018

Hon. Walton Brown: Thank you, Mr. Speaker.

The Speaker: Yes.

Hon. Walton Brown: Mr. Speaker, I move that the Bill entitled the Municipalities Amendment Act 2018 be now read the second time.

The Speaker: Continue on.

Hon. Walton Brown: Mr. Speaker, I rise to introduce a Bill entitled the Municipalities—

[Electronic device interruption]

The Speaker: Telephones should be turned off.

Continue, Minister.

Hon. Walton Brown: I rise to introduce the Bill entitled the Municipalities Amendment Act 2018.

This Bill seeks to amend the Municipalities Act 1923 (hereafter called "the principal Act") to provide: firstly, for the Minister to authorise public officers to attend meetings of the corporations; secondly, to give directions and take stewardship or temporary control of a corporation in certain circumstances where he believes it is in the best interests of Bermuda; and, thirdly, this Bill seeks to amend the Act to provide for the next ordinary municipal election to be held in 2019 and not 2018.

Mr. Speaker—

[Electronic device interruption]

The Speaker: I just made mention of telephones.

I am going to have them confiscated if people keep continuing on in this manner. Have your phones turned off, please.

Hon. Walton Brown: Mr. Speaker, it is clearly an effort to entertain while I give my presentation.

The Speaker: Minister, are you indicating that you might not be entertaining enough?

[Inaudible interjections]

Hon. Walton Brown: Mr. Speaker—

The Speaker: One could say something different, but . . . I do not want to go that way.

Hon. Walton Brown: No, no, Mr. Speaker. I will defer always to your wisdom.

The Speaker: All right. Continue on.

Hon. Walton Brown: This Bill proposes to defer ordinary municipal elections for a year until May 2019 while the Government undertakes consultation with the Corporations of Hamilton and St. George and the residents and ratepayers in each municipality, as well as consultation with the general public of Bermuda.

During this period Government will determine the most appropriate method to strengthen and modernise municipal governance for the benefit of Bermuda.

Mr. Speaker, the Budget Statement of 2018 introduced future technologies to ensure that Bermuda and Bermudians can benefit from those advances. In the age of FinTech and blockchain and digital technologies, to modernise our economy we must, at the same time, question our governance structure which, more often than not, dates back to a time when we used the horse and carriage, telex machines, and typewriters. We must also question whether we can do things better by modernising, but sometimes we must also recognise that the status quo is the best way to proceed.

Mr. Speaker, it is interesting that the municipalities are referred by many as "local government." This is ironic on an Island of 22 square miles or 54 square kilometres because in other jurisdictions Bermuda itself would be a municipality, a small one. However, as we have two bodies charged with responsibility for municipal governance, these authorities, in addition to the Bermuda Government, each has overlapping responsibilities that require greater coordination in the interest of good governance and financial accountability.

Mr. Speaker, I must stress that the municipalities have served and continue to serve an important purpose in managing the cities of Hamilton and St. George. However, there are inconsistencies in how each is structured. One corporation is focused mainly on business, the other mainly on residential matters. One has a fairly healthy revenue stream; one is reliant on the largess of Government. Both, however, have issues with failing infrastructure [and] both are looking for ways to stimulate their economies in order to raise more revenue.

Mr. Speaker, municipalities overseas provide social services, including housing, to their residents. Municipalities in Bermuda do not deliver any social services. This is the exclusive authority of the Government of Bermuda, although the need for social services within the municipalities is growing. Some of the challenges that we have encountered with the municipalities include the following:

1. Failures of accountability and the lack of proper due diligence and governance in awarding of contracts, for example, the Hamilton Waterfront Development resulting in the assumption of temporary stewardship and an arbitration that has cost and continues to cost millions of dollars to the public purse.
2. Inadequate resources to undertake important public infrastructure projects, such as the much-needed upgrade to the sewage system.
3. A challenging labour relations environment in the Corporation of Hamilton.
4. The lack of consultation with Government departments in relation to infrastructure, such as the Ministries of Public Works, Public Safety, and Home Affairs before embarking on projects related to traffic control, in relation to sidewalks, and ordinances such as sewage and waste management. And, of course, the Department of Planning for structures, in particular.
5. And finally, Mr. Speaker, a lack of formalised consultation that would allow the municipalities to team with the relevant Government sections to provide economic solutions within the municipalities that will benefit Bermuda.

Mr. Speaker, this Bill proposes to achieve the following:

Amend section 7(10A) of the principal Act to provide that public officers, when necessary, from the relevant Government departments, such as the Ministries of Public Works, National Security, or the Department of Planning can participate in municipal meetings regarding infrastructure repairs or maintenance and advise the Minister. Currently, the Act restricts the attendance to the Minister or his representative. This amendment will be of mutual benefit to both the municipalities and the Government and would have allowed, for example, further communication with the Ministry of Public Works to mitigate the risk to the entire Bermudian community who rely on the Hamilton Docks and the unloading of such or the ships in Hamilton and other important public infrastructure matters.

This Bill amends section 7AA(1) of the principal Act to allow the Minister to provide written directions to the corporations if he considers that it is in the best interest of Bermuda and ensure that the corporation give effect to any such directions. Currently the Act provides for the Minister to consider the public interest. The Amendment makes it clear that the Minister can consider the interests of the whole of Bermuda, because what happens within the municipalities affects the entire community of Bermuda.

This Bill also amends section 7AA of the principal Act to insert section (1A) to allow the Minister to direct the corporations to undertake projects that will provide economic benefit to the whole of the Island, such as the development of the Hamilton Waterfront or the St. George's Marina. We have learned that the

2016 Court of Appeal judgment in the matter of the *Mexico Infrastructure Finance (MIF) v. The Corporation of Hamilton* ruled that the Par-la-Ville Development Hotel could not be progressed because "the development would be something which would clearly be for the benefit of the whole Island, but does not relate to the functions of the local government of the City of Hamilton in particular . . ." Therefore that proposed development or engagement was ruled *ultra vires*. This amendment provides that any act or thing required to be done by such direction shall be deemed to be for municipal purposes and, therefore, is a function of the Corporation.

Section 3(aa) is also inserted and makes it clear that a corporation may be directed to do any act or thing that the Minister, acting under the general authority of the Cabinet, requires the Corporation to do and shall be deemed to be done for municipal purposes and is a function of the Corporation.

This Bill amends section 7B(6) of the principal Act to allow the Minister, where he believes that it is in the best interests of Bermuda, to take stewardship of the Corporation's infrastructure, function, or service in order to repair, maintain, or improve it until he is satisfied that the repair, maintenance, or improvement project has been completed.

Mr. Speaker, concerns were raised that taking stewardship means the ownership of the assets under development would be transferred to Government. This is untrue. When the Minister takes stewardship the management of the development will be overseen by the Government, but the asset will still be owned by the municipality in question.

And finally, Mr. Speaker, this Bill amends section 9 of the principal Act to defer ordinary municipal elections for a year until May 2019 while the Government undertakes consultations with the Corporations of Hamilton and St. George, the residents, and the ratepayers in each municipality, and with the general public of Bermuda.

Mr. Speaker, I must inform Honourable Members that consultation has already begun with the two corporations and public meetings will start in May. At the end of the consultation a policy document will be made available for review and comment by the general public prior to the Government making a decision on the optimal governance model for municipalities in Bermuda.

Mr. Speaker, the existence of municipal government in Bermuda may have raised concerns in the past about the efficient allocation of resources in such a small jurisdiction. However, the impetus for changing this arrangement has never been more important in the interest of proper and efficient governance. The Government believes that the two levels of Government—national and municipal—can no longer operate in economic or decision-making silos. And the case for changing the status quo has become stronger in recent years. There is increasing pressure on public expenditure with increased costs of public works. Government is committed to keeping the burden on the ratepayer within reasonable limits.

Mr. Speaker, I now move that the Bill entitled Municipalities Amendment Act 2018 be read for the second time.

The Speaker: Thank you, Minister.

Does any other Member wish to speak to this?

We recognise the Honourable Member from constituency 23. Honourable Member Gordon-Pamplin, you have the floor.

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

Mr. Speaker, I am going to start by saying thank you to the Minister for the explanation that he gave. But let me say that it could have been done an awful lot better.

Mr. Speaker, you will be aware that on Friday, the 9th of March, the Minister came to this Honourable House with a Ministerial Statement in respect of the Bill to which he has just now referred. In consultation and checking with Members who are responsible for the Corporations, certainly of Hamilton, it was indicated that there was effectively no level of consultation that would have allowed them to know that such statement and legislation was imminent. The Minister has just indicated that consultation, based on what he has previously determined, has actually already started.

But, Mr. Speaker, this is what came to mind. Probably about a week ago, maybe not even quite, the early part of this week, I was watching the news—

The Speaker: Mm-hmm.

Mrs. Patricia J. Gordon-Pamplin: —in which there was a tweet by the President of the United States advising his Secretary of State that he was fired. It would have been so much better . . . because that behaviour was deemed to be boorish at best, it would have been so much better had the President not just the presence of mind, but had the basic decency to go to his Secretary of State and say, *I have made a different decision in terms of your appointment and, as a result, you will be dismissed.* I cannot imagine anything worse than somebody who has significant responsibility for an organisation, for a budget, for anything to be told by virtue of listening to something in the public domain that your terms and conditions have been significantly amended. I think it is rude and it is entirely disrespectful in my opinion.

Now Mr. Speaker, I know that we have had different iterations of the Government's interaction with the corporations over the course of the last several years—from the previous PLP administration, going back to 2009, I believe it was, and to 2013 when

there was an amendment to the Municipalities Amendment Act which caused significant public outpouring and concern at a time when the then Government believed that the actions that they were taking were appropriate under the circumstances. And I have no doubt that the Government now believes that the actions that they are taking are appropriate under the circumstances. But we do not know because the consultation has not yet been had. It started, as the Minister indicated; but there has been no comfort that the justification that was given in the Ministerial Statement has any significant roots.

Let me just go back to one part of what the Minister is trying to do and that is to defer elections for one year, from 2018 to 2019. Now, it would suggest to me, Mr. Speaker, and certainly I would be concerned if I had a contract for a specific period of time, knowing that my obligations will terminate as of "X" date when the next elections were announced, to be told [publicly], not by immediate consultation and agreement, that you are going to have to wait for another year. It might be that members who are in that position may not want to serve for additional time. And it could very well be that if they decided that they did not wish to serve for additional time that the conditions and the bylaws of the Corporation would give them an out in terms of the replacement of anybody who chooses to step down.

But what happens if the entire team decides that they do not wish to serve for the additional year that is now being demanded of them by the Government? It is quite possible that you will end up with full elections almost by default because I do not believe that you can appropriately have a corporation and something of its magnitude operating and flying freely in the wind. So I am a little concerned about that.

Mr. Speaker, I think it is important to say, that in the absence of prior information, the Minister's comfort that he just gave, that there was apparently going to be some kind of takeover of the assets owned by the municipalities by the Government were not true . . . and I appreciate the explanation that the Minister has given because, obviously, with that not having been made apparent before it would give one cause to know that as a country we are financially stressed, we are strapped, and are basically teetering on the edge when it comes to our ratings, our rating agency ratings of our economic condition for the country. And knowing that those ratings are predicated upon the level of comfort that the rating agencies have with respect to the solvency of the balance sheet of Bermuda it would seem, because we had no further information, a natural concern expressed by members of the public to say that if you consolidated the Corporation's assets with those of the Government then it would allow greater financial leverage for the Government. That was natural to think because we did not have [any information] prior.

I said the firing of Rex Tillerson by a tweet was unfortunate. The disclosure that the Minister made on the 9th of March without prior consultation is unfortunate. It is unfortunate.

So, let me just go back to a little bit of the history because one would be . . . it could be understood if they expressed concern that the Corporation has operated in its own environment historically. And when the previous administration, the PLP Government attempted to take it over for whatever reasons at the time, it was . . . there was pushback. And then things kind of settled down a little bit. However, the administration of the Corporation at that time was shown, not just by public observation, but also by the Report of the Ombudsman, that things were not well in the Corporation.

We know that there was a committee, the alderman, and however the structure of the Corporation operates. We know that there were certain people on the committee who were pushing and driving down a path that the entire committee of the Corporation did not agree with. And you had the odd one or two people who had good conscience who were attempting to say to the members who were taking the Corporation in a wrong direction, in those members' estimation, that maybe we need to pause.

But sometimes when you are outnumbered—as we are in this Honourable House—irrespective of what might be deemed to be good governance, you can be out outvoted. But I think that there is no fear of contradiction when one looks at the facts of how the Corporation was operating, historically. There was a problem. Hence, some of the decisions that were made may not have been done in the best interest of a Corporation, but, rather, may have been seen and criticised to have been decisions taken in the best interest of certain members who sat on the Corporation at the time.

We talk about things such as the Black Mayor's Conference. Remember that, Mr. Speaker? I am sure you do. We talk about things such as the allowance for the Par-la-Ville hotel organisation and the Hamilton waterfront project, all of which were undertaken by a previous Corporation administration. We also know that after the OBA Government permitted a certain amount of leniency with respect to the Corporation and how they effectively ended up paying *ultra vires* somewhere in the order of $18 million to a corporation, and the Minister has referred to it, that it has given grave cause for not just concern but significant expenditure of monies in the legal arena and decisions that have been taken in regard to that particular instance. That happened, not because a decision was taken by the OBA Government to permit the Corporation to act in what they deemed to be appropriate under the circumstances, but it was done with specific terms and conditions. Those conditions, Mr. Speaker, were not met.

So while I have no doubt that later on today we will hear from Members of the Government [about] how irresponsible it would have been for the previous administration, the OBA administration, to allow a situation to occur, that situation with respect to the disbursement of monies ought never to have occurred had the administration of the Corporation at the time followed the specific terms and conditions that they were intending to operate under in order for those funds to have been dispersed.

And we know that this money, the $18 million, went amongst the missing. We do not know what has happened to it. We have heard many stories over time—

Hon. Walton Brown: Point of clarification.

Mrs. Patricia J. Gordon-Pamplin: Sure.

The Speaker: Minister.

POINT OF CLARIFICATION

Hon. Walton Brown: Just for the edification of the Honourable Member, there has been a report issued outlining a significant . . . and it is in detail, about the expenditure of that $12 million that was sent overseas.

The Speaker: Thank you, Minister.

Member.

Mrs. Patricia J. Gordon-Pamplin: Thank you.

And I appreciate the expenditure, you know, Mr. Speaker. I do not want the expenditure; I want the money back. That is really the operative. I understand, you know, you can tell me that you took $18 million, you spent it however and wherever you did, in an unauthorised way, and you can give me a penny for penny accounting. I am an accountant by profession. You can tell me penny for penny where that money went. But if the money does not come back, and you have done something that was *ultra vires* your authority, then somebody needed to have been held accountable.

Somebody needs to be held accountable. But does that say that the administration that is now in operation in the Corporation of Hamilton (and I will get to St. George's in a minute, but in the Corporation of Hamilton), does that say that they deserve the shabby treatment of reading in the public that their services are, to all intents and purposes, no longer required?

Now, the Minister also mentioned in Parliament, and I will go back if you will permit me, Mr. Speaker, to the Hansard of—

The Speaker: Yes. You want to read from Hansard?

Mrs. Patricia J. Gordon-Pamplin: —the 10th of July. I would like to make reference to it.

The Speaker: Okay.

Mrs. Patricia J. Gordon-Pamplin: I do not think it is necessarily appropriate to re-read. But I will make reference to an excerpt.

The Speaker: Mm-hmm.

Mrs. Patricia J. Gordon-Pamplin: On page 2680, from the Hansard of 10th of July of 2015. The Minister, in his criticism of the fact that the former OBA administration had "interfered"—and I will put that word in quotes because that was not the specific word that was [said]—that they had gotten involved with the operation of the Corporation. The question that the now Minister asked at the time, when he was in Opposition . . . he made the statement, if I may, just a quick paragraph, [1]"So the Government needs to properly explain why it would want to create such an environment; to have people elected and hold office but be completely neutered when it comes to the possession of any power to do anything."

That was the Minister's observation at that point. What we are now saying with this legislation, is that the Minister deems it to be appropriate. The structure of the Corporation, perhaps in the Government's eyes, no longer serves the purpose of—

Hon. Walton Brown: Point of order.

The Speaker: You have a point of order?

POINT OF ORDER
[Misleading]

Hon. Walton Brown: The Honourable Member is misleading the House. If the Honourable Member would actually read the legislation, she would see that there is no power grab over the assets or control of the Corporation. It is a selective approach based on contingent circumstances.

The Speaker: Thank you for that, Minister.

Mrs. Patricia J. Gordon-Pamplin: I actually said that at the outset. I said that if the Minister had put the cart before the horse, instead of allowing the tail to wag the dog, Mr. Speaker, we would have found ourselves in a better-informed position in which speculation would have not been allowed to run rife. That is my point. And I believe the Minister would also agree because I think he deems himself to be an honourable . . . I mean, sorry, a consultative individual—

[1] *Official Hansard Report*, 10 July 2015, page 2680

The Speaker: And honourable.

Mrs. Patricia J. Gordon-Pamplin: And honourable, yes.

The Speaker: Yes.

Mrs. Patricia J. Gordon-Pamplin: —a consultative individual, that perhaps he could have done things a little differently. [I'm] not sure why the rush for the tabling of the Ministerial Statement under the circumstances, but I do not believe it was appropriate at the time.

Now the Minister, in his Statement and again recently in his brief, spoke to the historic and efficient allocation of resources that had been exercised by various levels of Corporation of Hamilton executives. What I find interesting on page 5 of the Minister's Statement, which he gave in the House on Friday, the 9th of March . . . some of the justification for taking these steps, Mr. Speaker, one of which was that there is "inadequate resources to undertake important public infrastructure projects such as the needed upgrade to the sewerage system." The Minister mentioned it again today. [And] "policy and operations that need to be aligned with Government policies and legislation, and lack of consultation with the relevant Government departments in relation to infrastructure."

Mr. Speaker, the Minister also went on to say that reform is needed to "ensure collaboration between the Ministries of Public Works and Public Safety and Home Affairs before embarking on projects that impact traffic control and the making of ordinances."

Well, that is kind of mom-and-apple pie. If you are going to tear up the road and you know that people have to get into work, it is not just going to impact those who are coming and going from the City of Hamilton, because traffic backup creates a challenge back up into the highways and byways and creates bottlenecks, and creates frustration. So I understand that. But you can coordinate such if you have effective means of communication without barrelling your approach and attitude, and saying, *This is the way that we are going to do it.* You could consult. But this Government has done virtually nothing since they have come into office, except consult. You know, we have had some legislation. We have had some movement on some things, but predominantly we have been governed by consultation, meetings, committees, and reports. That is what the Government has been [doing] thus far.

But I think that perhaps one of the interesting things that showed on the Minister's Statement, Mr. Speaker, if I may refer, "breaches of protocol" (which the Minister also just referred to in his ministerial brief). "Breaches of protocol—for example, the Corporation invited the Taiwan Government to contact the Bermuda Government to enter into a tax information exchange agreement without first speaking with the Premier and Minister of Finance."

Mr. Speaker, if ever there has been a veneer of an excuse, this has to be one of them, in my opinion. And I say that because if I, as a stranger, come into your home and I ask you a question, and I ask for information, [and] you say to me, *I am not the one to give you the information. You need to make that request of the Honourable Member, the Honourable Minister, anybody, because it is not my domain.* So you send them to where they have to go. So why would one think that there is a problem if, having been asked for information that is outside of their jurisdiction, that the Corporation would say, *Go to the people who you have to ask.*

So are you saying that if you do not dot the i's the way I want, or cross the t's the way I want, somehow there is no validity in your approach toward your governance of your corporation? I mean, that is unfortunate, Mr. Speaker. Because I do not believe that the people who work in the Corporation deserve that shabby kind of treatment.

I listened to the Minister's comment that in fact there was no commingling of the funds with that of the Government. And I am very pleased to hear that, because the thought that came to mind was, if I as a neighbour saw that I have little and my neighbour has much, somehow [I] do not have the right to go and say, *because I have little, you have much, we need to basically make one big pile of what it is that we have, so that everybody is handled and treated fairly.* The neighbour who has much may have been frugal; the person who has little may have squandered, missed opportunities, may not have been as fiscally prudent as his neighbour and, therefore, has come out on the short end.

But you know, the one thing that is interesting to me, because you may know and I have said it before in this Honourable House, Mr. Speaker, I am a city girl. I grew up on Victoria Street where my family homestead sits. And in that capacity, of being a city girl, I understand the workings of the Corporation. I can remember times when my mother, who was tasked with budgeting our home finances, in terms of *do I expose my property, my real estate, to fines and levies for not paying Corporation tax, because I have got my children to feed, or do I preserve the roof over their head and pay my Corporation tax?* Not an easy decisions for a single mom at that point in time because my dad had passed away, with five small children. *Do I feed my children, or do I keep a roof over their heads?*

So I know the Corporation and its operations have formed an integral part of our lives and the sacrifice that had to be made by, not just my family, but many others during that period of time.

Mr. Speaker, we see how the Corporation has been able to manage through some very difficult and testy times, how some members of their committees

through very difficult deliberations have found themselves up against a blank wall when it comes to dealing with some their colleagues at the time, which caused many factions and splits within the Corporation management, but then managed to get through that, and through it all are able to still come out of it relatively financially stable.

Now the Minister spoke to things, such as, not having funding for the infrastructure rectification and spoke to the situation with respect to the docks. He said that the recently announced closure of the docks is a problem that has developed over time. But you know, Mr. Speaker, the one thing that perhaps I can admire, because I believe that the approach is exemplary is one that says when you do not have money to do something, then in the absence of a triple P, when something is absolutely essential, that you wait until you can budget for it. You wait until you have the money. So is there something negative about the fact that the docks found themselves having to go through a temporary closure by virtue of ensuring that there was the funding available? Or do we do what we have come to expect under a previous administration, *If you don't have the money, go borrow it. If you don't have; go borrow it.* And these are things that create challenges with how we operate.

[Inaudible interjections]

Mrs. Patricia J. Gordon-Pamplin: So let me now go to the St. George's marina. And before I hear comments coming back on that particular statement, Mr. Speaker, I think it is important to qualify that bit. I am going to say that because I do hear some utterances.

Let me say that if you have to borrow money to pay people because you have overspent and overstressed yourself, when you have left a new Government with no money and no money to pay salaries, then you can be assured, Mr. Speaker, I would borrow as well. I would borrow as well. But not to the extent that a project can be well managed, properly planned for, and budgeted for, I would not borrow. That is just to my mind prudent fiscal management.

But let me just also say that the Minister has indicated that the existence of municipal governments may have raised concern in times when there were examples of inefficient allocation, but the impetus of changing the arrangement has never been challenged. It has never been strong enough, up until now, to look at things differently. And I am not saying that it is inappropriate to look at things differently. I am just saying that when we deal with people we certainly must have an attitude that allows us to deal with people respectfully, and to respect the positions that they hold.

Mr. Speaker, I would like to see as the Government carries on . . . oh, one other comment that the Minister made, which I found to be a little interesting was that the deliberations and considerations that they have must be to consider the public interest. And he underscored the whole of Bermuda. Is the whole of Bermuda and the public not synonymous? I guess I am trying to figure out what is the difference?

What is the difference between doing something for the public interest and doing something for the whole of Bermuda? The whole of Bermuda is public. Now I understand that there are decisions that may be taken by the administrators, by the Corporation committee that would suggest that some projects will better enhance the city as opposed to the entire country. I think if that is what the Minister meant, then I understand it. But to say that we want to consider the public interest and that . . . you know, and . . . I mean, when he said the whole of Bermuda, I thought, *Hmm, that's interesting, I thought they were synonymous.*

The Minister indicated that we may be looking for an optimal model. I understand that we all want optimality, we all want efficiency, and we all want to know that public funds are being well taken care of and are being expended appropriately.

Let me go to St. George's, Mr. Speaker. Now, in St. George's the Minister specifically mentioned the St. George's marina. There was a time when the Corporation of St. George's, and the Minister in his brief indicated that one corporation was business oriented and the second was residentially oriented, i.e., the City of Hamilton, which is the business centre of the community, to all intents and purposes, does operate differently than the old town and the Corporation of St. George's. We get that and we understand that.

But there was a time, Mr. Speaker, that the prior Government, before the OBA Government, realised that there was a need for the funding that was inured to the benefit of the Corporation for them to manage their programmes, such as their street cleaning, and garbage collection, and whatever else, and maintaining their infrastructure. But they took away their wharfage. They took it away. So it was when the OBA administration came in they thought, *That can't be right because you cannot have a corporation that is left floundering because of want of additional revenue.* Not just any corporation, but a corporation which presides over a World Heritage Site.

Mr. Speaker, there were things that were done wrong in the previous administration. We hear almost on a daily basis that "they" (meaning us), are the past, and "we" are the future. Well, what I see is that "they" the future, have brought some of their habits from the past and infused them into this futuristic environment that they boast to have, because if you stop to look at how the Corporation of St. George's is going to have to manage, it was they who took away the funding. It was they who took away the funding. So, I rest my case on that.

The other concern that I have, Mr. Speaker, and I am going to be, I guess, sensitive in how I put this forward. But very recently we have had comments that were made in terms of how the Minister has inter-

acted with people who have been frustrated by actions by a previous administration in terms of the validity of their contracts. We had heard . . . we asked the question of the Minister in this honourable place, if he could explain to the House the involvement that he would have had by offering to represent an individual in a certain course of action.

At the time there was nothing that said to me that there was any justification . . . "justification" perhaps is not quite the right word . . . that there was any professional relationship or service that the Minister could have offered in carrying out that which was indicated that he would be able to do. So when one sees that this Minister is now responsible for the same Corporation in which there was significant interest by a third party, it would be very comforting to know the degree of interaction. Not because of just innuendo or hearsay, but because by the Minister's own utterances on public radio to say that, *I offered to assist.*

And it would be good to know what level of assistance existed, or was planning on being offered, only from the point of view that we want to ensure that maybe under the circumstances, it may be more appropriate under the Good Governance Act that if the Minister feels that he may compromised or conflicted to allow one of his colleagues, I am not saying not to bring the Bill, but to allow one of his colleagues to drive this legislation, if there is some sense of conflict that might have existed. That would be a major concern for me, Mr. Speaker.

I would like to see that the Corporation is perhaps left in place as is; allow them to have their elections if people do not wish to serve for an extra year. And effectively ensure that it runs appropriately during the consultation period. We in this Honourable House, Mr. Speaker, are expected to be able to walk and chew gum at the same time. I believe that the Government has been fairly adept at that. I think they have done a reasonable job in some circumstances. They have done tons of consultation. I think that the previous administration had to, whether we wanted to or not, deal with many fires that we were attempting to put out at the same time, based on circumstances.

So it is not unheard of or unprecedented that you cannot allow things to happen and continue to operate well with elections . . . I am not saying, you know . . . he is taking the membership, he is not taking the officers out of place, they are just saying stay there for another year. But as I said, it could create specific hardships for some people.

And let me just say that to the extent that any of the members of the Corporation have had to deal with difficult co-counsellors, aldermen, and the like, whether in this administration or the previous administration, let me say that I applaud those who stand firmly on principle. And I would encourage them to the extent possible because, you know, as I said, irrespective of what I think about this, the Government will have its way. You know, [24 to 12 seats] does not give you an awful lot of wiggle room. The only thing you can do is stand up, run your mouth, have your say, and hope that some of the recommendations that may come, that the Government may at least listen—at least listen.

So I have no difficulty, if that is what they choose to do. We are obviously hamstrung by the numbers in this Honourable House so we cannot vote down the legislation. I am not even going to attempt to. But what I am going to say is that when we make decisions, if you talk about how much you care about people in one breath, and then you treat people so shabbily in the same breath, I start to question your veracity. Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

Does any other Honourable Member wish to speak?

I recognise the Honourable Member from constituency 22. Honourable Member Gibbons, you have the floor.

Hon. Dr. E. Grant Gibbons: Thank you, Mr. Speaker.

Mr. Speaker, I think my honourable colleague, Pat Gordon-Pamplin has set out a number of issues and has raised a number of concerns about this particular amendment Bill. I think she has laid the groundwork here. I am going to focus on basically three issues that certainly cause me a great concern with the amendments that we have before us today.

The first issue is what I consider to be an extraordinary lack of consultation from a Minister in terms of how he has handled the introduction of this Bill, from a Minister who, at least when he was in Opposition, certainly grandstanded on the prospect of consultation.

The second issue I have, Mr. Speaker, is the Minister in this amending Bill is unilaterally deferring an election and suspending the normal democratic process for the municipalities.

The third issue, and certainly it is the way I see it, he is bulldozing through amendments which significantly broaden the powers of the Minister to control the corporations and give the Minister power to effectively take over or control, under the stewardship provision, certain assets of the corporation for an unspecified period of time.

Let me start with the consultation issue. As I said, my own sense here, and I have to say, I am surprised, particularly after what that Honourable Member said about former Members of the previous Government, what I consider to be really an extraordinary lack of consultation. When the Mayor of Hamilton indicates that he has had no warning—

Hon. Walton Brown: Point of order.

The Speaker: Point of order?

POINT OF ORDER

Hon. Walton Brown: I just want to—

The Speaker: Yes, Minister.

Hon. Walton Brown: I just want to reiterate, Mr. Speaker.

POINT OF ORDER

Hon. Walton Brown: I don't know if people just lack—

The Speaker: Ah, ah, ah.

Hon. Walton Brown: —the capacity to understand. Consultation will take place over the next 12 months. I do not know if people fail to gather, but there will be an extensive consultation period. I do not know what more I need to say in that regard.

The Speaker: Thank you, Minister.

Hon. Dr. E. Grant Gibbons: Thank you, Mr. Speaker.

It confirms what I am about to say. It is consultation on the Minister's terms, not on the terms of the Corporation.

If the Honourable Member is hoping to have a partnership going forward, and a consultation with a Corporation, then he is off to a pretty bad start here. No courtesy, not even a heads-up, *By the way, I am putting down a piece of legislation. Here is roughly what is in it. I am going to give a Statement,* this previous Friday. Nothing of that sort. Basically, consultation, purely on the Minister's terms.

Now, what I found even more surprising about that, and sort of striking in a way. And with your permission, Mr. Speaker, back in September of last year in the Hansard, on page 67 of the 15th of September, the Minister said, [2]"This Government will commit itself to, again, a consultative process. We will consult with the public; we will consult with stakeholders to identify the most appropriate framework for moving forward in terms of the relationship between the Government and municipalities."

Now, clearly, from the Minister's perspective that is something that he is going to do in the future, after setting out the terms under which that is going to happen. Mr. Speaker, that is not full consultation. That is saying, *Here is what I am going to do, and then we will come and talk to you about it down the road.*

Mr. Speaker, there is no consultation here. There may be going forward. He simply proceeded to table the Bill, tell the stakeholders what he was going to do after the fact . . . and the Minister should understand, that is not consultation in the full sense of the word. In fact, most people, based on how that Minister has approached things in the past, will consider that certainly a 180 in terms of what he thought was good for others.

The second issue, Mr. Speaker: This, from my perspective, is very troubling. The Minister, in terms of tabling this Bill, has made a unilateral decision, presumably with Cabinet's blessing, to suspend the democratic process and defer the Corporation municipality elections for a year. Now, pretty strong stuff, Mr. Speaker. You, and I think other Members of the House, know that it is very infrequently that elections are deferred. Normally it is through hurricanes, acts of God, or other natural disasters. Now, Mr. Speaker, over the last few months I have the sense that the Cabinet may feel like God with a 24 to12 majority, but they are not.

The Speaker: Well, well . . . we wouldn't go that far.

Hon. Dr. E. Grant Gibbons: I think we all understand that, Mr. Speaker.

The Speaker: We wouldn't go that far.

[Inaudible interjections]

The Speaker: We wouldn't go that far.

Hon. Dr. E. Grant Gibbons: It is really, from my perspective, in terms of suspending an election for a year, it is arrogance. They have the power to it—

The Speaker: Well—

Mr. Rolfe Commissiong: Mr. Speaker, point of order.

The Member's misleading the House. Certainly with a 21 seat majority, you were acting as if you were God, so I mean—

The Speaker: All right, Member.

Mr. Rolfe Commissiong: —I think we have 24 seats—

The Speaker: Member, Member.

Hon. Dr. E. Grant Gibbons: Thank you, Mr. Speaker, that is not a point of order.

Mr. Rolfe Commissiong: Or 19 seat majority.

The Speaker: Member.

Hon. Dr. E. Grant Gibbons: And—

Mr. Rolfe Commissiong: A one-seat majority.

[2] *Official Hansard Report*, 15 September 2017, page 67

Hon. Dr. E. Grant Gibbons: And clearly so, given what I would say, is a total lack of consultation to this point.

Mr. Speaker, the last time, in my memory, that an election was deferred in Bermuda was back in the referendum of 1995, the referendum on independence. And as we know, that was, I think it was maybe 24 hours, maybe 48 hours at the most. And it was simply a consequence of a hurricane going through and an inability to be able to sort of man polling stations.

In other areas it is usually security threats or other things. But there certainly are . . . we are not in good company here, Mr. Speaker, the Minister certainly isn't. I was curious and had a look to see what other countries—

The Speaker: Members.

Hon. Dr. E. Grant Gibbons: —have deferred elections.

The Speaker: Members!

Hon. Dr. E. Grant Gibbons: Algeria.

[Gavel]

Hon. Dr. E. Grant Gibbons: Haiti.

The Speaker: It is getting noisy.

Hon. Dr. E. Grant Gibbons: Lebanon—

[Inaudible interjections]

Hon. Walton Brown: Point of order.

Hon. Dr. E. Grant Gibbons: Democratic Republic of the Congo and Uganda.

Hon. Walton Brown: Point of order.

The Speaker: Have a seat, Member.

Minister.

POINT OF ORDER
[Misleading]

Hon. Walton Brown: That Member is deliberately misleading the House. He is conflating and confusing national elections with municipal elections. You are talking about a government that is seeking to retain power in certain countries versus a municipality which is a subset of a government. It is an idiotic comment and comparison to make.

The Speaker: Thank you, Minister.

Member.

Hon. Dr. E. Grant Gibbons: Mr. Speaker, we are going to have to agree to disagree on that one. It is a democratic process. It is set out in legislation. It has been in place for hundreds of years, at this particular point. There are expectations that both voters and elected members of the municipalities have.

So the Honourable Member can belittle the municipalities if he wishes to, say it is not national elections, the fact of the matter is these are elections. They have been held for a long time and there are expectations under the legislation for carrying them through.

Voters have a reasonable expectation to vote in May. It was set out clearly and . . . point of fact, there may be some members who will not be able to vote a year from May. They simply will not be able to. So the Minister is basically removing their ability to be able to vote. They may move out of the municipality. They may simply not be around at a later point. So in many respects he is removing their democratic rights without—and this is where it is important—without a reasonably good explanation.

My sense is I do not see any reason why he needs to defer the election. In fact, I believe it is probably more appropriate to have the election. If you simply suspend it for a year, in a year from now you are going to have members who are going to be possibly re-elected, maybe some of them will be removed.

What the Minister really should be doing is having the election and then having a slate of elected people in place for three years. So he starts the election with a new slate, they are the ones that go through the negotiation, if that is what the process is going to be, and they are there to work with the Minister, assuming a working relationship can be done, for the next three years. To simply delay a process for a year actually in a practical way does not make a lot of sense to me.

The third issue, Mr. Speaker. I called it "bulldozing" because we all know here that there is only one week in which this legislation can be considered in which people, particular outside, have a chance to respond to it, to understand it and the rest of it. Normally it would sit for two weeks. So to do it on the Friday before the last Friday is, from my perspective, trying to rush something through very quickly. Now the Minister may disagree but I think—

The Speaker: It is not the first time any Government has used the short period of seven days.

Hon. Dr. E. Grant Gibbons: Ah!

The Speaker: Any government. Any government.

Hon. Dr. E. Grant Gibbons: Mr. Speaker, you are absolutely right. Okay. But generally it is only done when there is a real need to do something.

[Inaudible interjections]

Hon. Dr. E. Grant Gibbons: Okay? And I am not sure—

The Speaker: Well, I can think of some legislation in the past that will question that, but go ahead.

Hon. Dr. E. Grant Gibbons: Mr. Speaker, I . . . I—

The Speaker: I have been around here for a long time now, remember that.

Hon. Dr. E. Grant Gibbons: You and I both have been around for a long time. Okay?

But I think it is particular striking in view of what the Honourable Member said, and there is another provision in the Hansard back from July of 2015. Mr. Speaker, you will remember that that was the Municipalities Amendment Act by the former Government. And you will remember that that was quite . . . and you may have participated. I think I did as well. [It was] quite a heated discussion. I was particularly struck, and with your permission, Mr. Speaker—

The Speaker: Continue.

Hon. Dr. E. Grant Gibbons: The Honourable Minister, the then Opposition Member, said at the time in talking about the Municipalities Amendment Act that my honourable colleague, the one sitting in front of me, Mr. Sylvan Richards, was putting through as the Junior Minister. And that Honourable Member at the time, that is Mr. Brown, said:

[3]"It will create an environment in which the Corporation will be landed the power to do everything it wants to do, unless the Government disagrees. So if we pass this Act we are, in effect, making a mockery of democracy because we have created a sham. We will create a sham of a structure. We will have Members elected to the Corporation of Hamilton and St. George's through a process which involves expenditure of public funds. They will sit and they will deliberate, but their decisions will never be valid unless and until it has the approval of the Government.

"So why really have the Corporations?"

So, obviously, the Honourable Member back at that point, had very strong feelings about any change, any increase, any interference that the Government of the day would have over the corporations. And yet, here we are today, Mr. Speaker, pushing through amendments which further broaden the power of the Government to—in his words—*create a sham of democracy in terms of the corporations.*

The 2015 amendments gave the Minister—and this is important, Mr. Speaker—temporary powers to step in and direct the Corporation. The amendments in this Bill are much stronger than that. They specifically eliminate the word "temporary" and significantly broaden the scope of the Minister's powers over the assets of the Corporation when the Minister deems this to be in Bermuda's interest—as defined, of course, by the Minister, as to what is in Bermuda's best interest.

The point of course is that, and this is something that my honourable colleague, Pat Gordon-Pamplin raised, the assets of the Corporation have been a sensitive issue going back not only to the past Government, the OBA Government, but before that, the former Progressive Labour Party Government. And from my perspective, and people can have different opinions on this, it was this issue of control of the assets and ownership of the assets which prevented a former PLP administration from taking over the corporations.

And the simple reason for that is that under the Constitution there are property rights and the Corporation of Hamilton and the Corporation of St. George's have property and have assets, and were the Government to take those over in a substantive way, to confiscate them—and I am not suggesting they are being confiscated here—but if they were to confiscate them, then there would be a requirement for reimbursement. And we know the price tag on that reimbursement would be very high, Mr. Speaker.

So the issue here, I think, and we will get into this a little bit more in Committee, is the Minister with these amendments is broadening his powers to essentially take over and control the assets of the Corporation. But it is for an unspecified period of time. What is to stop that "stewardship," as it is referred to in the Bill, from being 10 years, 25 years, 99 years? The only requirement here is for the Minister to essentially indicate that the reason for taking over that stewardship has been completed. And the word "improvements" is gone in here as well. So, Mr. Speaker, my sense is that this is in essence a way to, without bridging the powers of the Corporation to own the assets, control those assets for a period of time.

And I think we all know what we are talking about here. We are talking about the waterfront, Mr. Speaker. I think the Minister really needs to explain himself here because if you look at it very broadly, this is essentially a seizure of assets for a period of time if the Minister wishes to proceed down that road.

Now, Mr. Speaker, I have high regard for that Honourable Member. But the challenge with amending legislation is we may not have, I will say, as reasonable a Member in that ministerial seat in the future, going forward. And I think this is broad enough—

[Inaudible interjections]

Hon. Dr. E. Grant Gibbons: I think this is broad enough—

[3] *Official Hansard Report*, 10 July 2015, pages, 2679-2680

The Speaker: Members, Members. Members.

Hon. Dr. E. Grant Gibbons: I think this is broad enough to do exactly what the Minister was so concerned about in 2015, which is to create a bit of a sham of democracy in terms of municipalities here. Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

Does any other Honourable Member wish to speak?

We recognise the Honourable Member Sylvan Richards. You have the floor.

Mr. Sylvan D. Richards, Jr.: Thank you, Mr. Speaker.

Mr. Speaker, you know, politics is a funny thing. It always amazes me when I sit here sometimes and I remember what Honourable Members said when they were in a different position to what they are today. I was the Junior Minister for Home Affairs in 2015 when we had, basically, a rogue administration down at the Corporation of Hamilton. I am not going to sit here and rehash everything they were doing. It is on the record. But they were clearly out of control.

I remember sitting with the Minister at the time, consulting with him and our technical officers on what can be done to rein them in. And what came up, what was decided upon was that the Minister would take temporary control over the corporations, and [while] St. George's was fine, unfortunately the Corporation of Hamilton at the time, they were the bad actors. But we couldn't differentiate so we said . . . we introduced amendments so that Minister would have control over the Corporation of Hamilton until the situation was sorted out. Once it was sorted out the control was given back to the Corporation.

At that time, when that Bill was brought to the House, and if you would allow me, Mr. Speaker, I would like to read from the Hansard from July 10, 2015—

The Speaker: Go ahead.

Mr. Sylvan D. Richards, Jr.: —comments that were made by the Honourable Member Walton Brown, at that time.

The Speaker: Go ahead.

Mr. Sylvan D. Richards, Jr.: I quote, [4]"I thought why have it" [the municipalities] "if their decisions are not their own, if their decisions all have to be approved by the Government?

"So we have a formal structure with absolutely no power whatsoever. So the Government needs to properly explain why it would want to create such an environment; to have people elected and hold office but be completely neutered when it comes to the possession of any power to do anything.

"So [there] is a grave problem with this legislation, Mr. Speaker, it renders the time, the effort of the Corporations of Hamilton and St. George's completely useless—completely useless.

"So I do not fully understand the thinking behind the Government."

That is all I have to say, Mr. Speaker. Those were that MP's words and I just do not understand—

The Speaker: Honourable Minister.

Mr. Sylvan D. Richards, Jr.: —how that Honourable Member can stand here and take the position that he is taking now. His own words convict him, Mr. Speaker. Thank you.

The Speaker: Thank you, Honourable Member.

Does any other Honourable Member wish to speak?

We recognise the Honourable Member from constituency 1. The Honourable Member Ming, you now have the floor.

Mrs. Renee Ming: Good afternoon, Mr. Speaker, and listening audience.

The Speaker: Good afternoon.

Mrs. Renee Ming: Mr. Speaker, I thought it was probably timely that I weigh in and give my thoughts with regard to the Bill that is put in front of us. Let me declare my interest fast and in a hurry. I was a common councillor, I was an alderman, and I have lived in a municipality all my life.

The Speaker: Mm-hmm.

Mrs. Renee Ming: So I think that may mean that I have a little bit of knowledge about municipalities, well, St. George's, anyhow. I did not live in Hamilton.

So, Mr. Speaker, first of all, I am going to thank the Minister for bringing this Bill because having served on the Corporation of St. George's, I think that . . . there . . . the fact that we are looking at this on consultation is timely. And this is a conversation that I have had many times over the last few years.

When you go back and you look at the Act, it is the Municipalities Act 1923. Okay? We are now in 2018. Okay? So that is almost 100 years ago that that Act came into play. There are so many aspects of that Act that are no longer relevant. And we could sit here and we could politicise that this, the PLP did this . . . let's be honest about what we have in front of us here today. We have an Act that is almost 100 years old.

And it does not . . . it not truly . . . I am not going to say all aspects are irrelevant, Mr. Speaker, but

[4] Ibid. page 2680

there are many aspects that are irrelevant. So something as serious as how you move forward with something like this requires consultation.

I have looked at the municipalities over the last few years, Mr. Speaker, and they are . . . and I am going to talk about St. George's and Hamilton here. Hamilton has a majority, significant, approximately 1,600 businesses and then approximately 600 residences. St. George's, on the other hand, has approximately 1,300 residents, and at the last election there were 67 businesses. So when I look at the two municipalities, I see two completely different municipalities which means that the rules and the laws that govern them actually can be different. So what we are saying to the municipalities is, even though you are fundamentally different and opposite of each other, you all have to fit into the same box. You have to be governed by the same rules.

So, Mr. Speaker, when we sit here and we talk about what happened many years ago, and stuff like that, I think we really have to first of all stop and look at the Act that governs the municipalities. I mean, I do not think any of us around here would like to think that we have a 100 year old Act that and we are saying that *this is the crux of this here.* Yes, we have had amendments, Mr. Speaker. But the principal Act goes back that far.

So when we think about where we want to move in terms of municipalities, we could have taken the approach maybe to just, *We are going to do this, do that, do that.* But the people have come off of four and a half years of that, Mr. Speaker, and they want to be included in the process. And the Minister made it very clear in his brief where he said he will be consulting with the stakeholders of the Corporations, St. George's and Hamilton. He said the residents. And when he says "stakeholder," that could be just any Bermudian who would like to have a say in any proposed changes for the municipalities, because at this stage I do not know what those changes will be. Because consultation is just that, going out and seeking something, not determining in your head already what those results will be.

The PLP were elected based on a consultative approach. So I know that we heard the words "consultation, consultation" but if that is what we were elected to do, and to be inclusive, then that is how we have to operate, Mr. Speaker. So I make no apology for it. I do throw my support behind this Bill. I look forward to the consultative process because I am sure that I will be a part of it. I will lend my voice to it. I will encourage my residents, my constituents to be a part of it.

Mr. Speaker, I am going to speak about St. George's because that is the one I know the most and that is where I stay. There are so many things that St. George's would love to do. And I know that in times of revenue there are challenges in raising revenue. And so this consultation process may provide us with avenues, thoughts, ideas on how we as a municipality can raise revenue so that we do not have to rely on the Government coffers all the time.

Mr. Speaker, I know that there is someone who spoke before me and they mentioned that the PLP took away the money. I remember when I sat on the Corporation. It's funny, because I am just a numbers buff. And the quarterly grant that used to come from the Progressive Labour Party was 2-8-7-5-0-0. I do not even know why I remember that number, Mr. Speaker, but I do. That was the quarterly number that used to come in the grant, which actually equates to $1.150 million per year. So to say that we took away the money . . . well, the people know and they can pick the beans out of that one.

Mr. Speaker, there are so many other things with regard to St. George's. We have talked, and we know we need a waste treatment facility. We know it is going to cost lots of money. But another thing that may come through this consultation process, Mr. Speaker, is how do we proceed with that? There are options out there on the table. I am thinking that when you say "consultation" and I am sure that this is what the Minister meant, everything is open for discussion. Everything is on the table. Bring your thoughts, your ideas, your comments, your criticisms, and let's move forward that way. It cannot be to sit here and talk about the past and what happened like so many years ago and stuff like that.

I mean, trust me, I think I know and the people understand why and how we find ourselves here today. The fact that my honourable colleague mentioned 24 to 12 . . . well, that in itself is an answer, Mr. Speaker.

Mr. Speaker, there was an article this week in the *Royal Gazette* by one of my colleagues from another place and another time. I found it so interesting because we talk so much and we hear this word "consultation" almost like it is unreal. But I believe that had we had more consultation over the last five years, we may have had and avoided many different results. And it is funny because that same Member will sit here now and tell us, *This is indeed a pity* . . . I'm sorry. This is the [5]*Royal Gazette* article, Mr. Speaker. "This is indeed a pity and a demonstration of a failure to manage matters effectively."

Seriously, Mr. Speaker? I could probably read more, but I do not even think it is worth my time to do that because there have been occasions when we have seen what lack of consultation can do.

Mr. Speaker, we could go back and look at protests over the last four and a half, five years and see what lack of consultation got us as a country. Shoot, we are sitting here the week after a five-day civil unrest where Members of Parliament were locked out of the House of Assembly because the people in Bermuda did not feel that they were consulted.

[5] *Royal Gazette*, 13 March 2018

We cannot use consultation where and when we want to use it, you know. It has to be an all-in, or you just do not do it at all. There is some . . . you know, it is probably going to be seen like I am saying this as joke, Mr. Speaker, but it is really serious to me because there were some times, and I have said it before in another place, that there are things that were said, visions that you have that you will never forget in your life. And that is probably one of them, one of many for me. Because we can talk about being back from the brink, but in July 18, 2017, I truly do believe that the PLP pulled the country back from the brink. It may not be the financial side, but it was on the brink. And maybe we will go write a book about that, Mr. Speaker. Who knows!

But Mr. Speaker, I am not here to give you a long speech. I have said what I had to say. I will once again thank the Minister. I believe that this is long overdue. I want you to consider what I said in terms of an Act from 1923, and hope that others, and the listening public, can see the logic and the rationale behind why we are proceeding with this. Thank you, Mr. Speaker.

The Speaker: Thank you, Member.

Does any other Honourable Member wish to speak? I see three people jump and who is speaking?

[Laughter]

The Speaker: Is a race on over there?

[Laughter]

The Speaker: Member from constituency 26, it looks like you beat everybody. Eh?

Mr. Neville S. Tyrrell: First time.

The Speaker: First time. All right.

We recognise the Honourable Member from constituency 26, Honourable Member Tyrrell. You have the floor.

Mr. Neville S. Tyrrell: Thank you, Mr. Speaker. Good evening, everyone.

Mr. Speaker—

The Speaker: Yes.

Mr. Neville S. Tyrrell: —I think there was a paragraph in the Minister's brief last week Friday, that I think would sum this whole thing up. Permission, if you would allow me to read it?

The Speaker: Go ahead. Continue.

Mr. Neville S. Tyrrell: Thank you. It says, "Mr. Speaker, this Bill proposes to defer elections for a year until May 2019 while the Government undertakes consultations with the Corporations of Hamilton and St. George's, with the residents and ratepayers in each municipality, and with the general public of Bermuda."

Mr. Speaker, I think that wraps it all up. We are going to consult.

I heard one of the Honourable Members from the other side, if I could use the word "pooh-pooh" . . . to use consultation as if like, *Well, you do everything in consultation.* Well, we want to consult. I can assure you. Because we know what has happened when governments have not consulted with the people. So we are not afraid to say that we want to consult.

The fact that this Bill which the Minister is bringing, as my honourable colleague pointed out, is as old as 1923 . . . yes, it has been amended a few times. In fact, twice in the last administration. So it obviously shows that there is some need to make changes.

Let me also say that the point I really want to make, Mr. Speaker, is that this consultation will give the framework for possibly more investments with the municipalities (that word just does not roll off my tongue too easy). But, Mr. Speaker, again, consultation.

Now, one of the Honourable Members on the other side said, *Well, delaying the election for another year might mean that some people might not be able to vote,* or whatever. Well, whatever! Some people might not be able to vote in May coming this year. So I think that is a very, very weak argument for challenging the Minister on delaying the election process.

One of the points that also came from the other side was the perceived conflict of interest by the Minister in this. I think the Minister has spoken to that perception, if I can use that word. And he feels comfortable enough I think to pilot this Bill and see no reason why he should not pilot the Bill. So I am certainly going to support that.

In fact, my last point, again, I will go back to consultation, Mr. Speaker. Again, it seems as if it is something . . . in fact the word "grandstanding" was used in connection with us consulting the people. So, Mr. Speaker, I proudly stand with the Minister in this effort to do whatever he can to assist some more efficiency in the municipalities. Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

Does any other Honourable Member wish to speak?

We recognise your colleague next to you there, the Member from constituency 2, Honourable Member Swan. You have the floor.

Mr. Hubert (Kim) E. Swan: Good evening, Mr. Speaker.

The Speaker: Good evening.

Mr. Hubert (Kim) E. Swan: I declare my interest. I live within the municipality of the town of St. George's, proudly. I just want to offer some comments on this particular Bill.

I found it very interesting that the Members opposite, in their effort to poke holes at the work of the Minister, the good work of the Minister, would try to hang his words at a different time under different circumstances, around his neck for the circumstances of today. I have known this Minister for quite some time and admired him all along the way for his ability to champion democracy and fight for a fairer and just Bermuda. I know much of that work still remains undone. So in some regard we have to work through what is, notwithstanding what we have to do during that particular time.

As I reflect on that particular time, I noticed that Members' opposite were quick to tell the Minister what he was saying, but very short on telling anybody in this Honourable House what they were doing at that particular time. At that particular time, Mr. Speaker, I do believe in the first time that I know of, and I have not been around this long, but I ran first in the 1983 election (which wasn't yesterday), and waited a lot of years before I actually was in the Legislature in 1998. But I cannot remember during my tenure or any time immediately before, where a Government reversed a contract.

In fact, Mr. Speaker, if I fast-forward to the criticism of today, when the PLP Government is being criticised for consultation and saying we consult too much, if we had acted like the [former] Government had acted, some folks would have you go down and just stop the airport! Which was done without tendering, which is the type of way in which best practices are followed, which was done, which should have been done in a way where the person who was the principal architect of it would argue against, all during their tenure, but now would write op-eds and the like to justify what they did. You know what I mean? It is almost like, you know, I can make the rules up as I go along. But it is okay that they do something and then try to hang the good Minister's words around his neck in a different context than what really exists today.

What does this responsible Minister have to do today? I have walked and said I am just a country teacher. I teach a trade. I teach people, and a lot of times, persons come to you with problems, both physical and emotional. And you have to sort out the two before you can get to the root of the situation. This Minister is confronted with not just a Municipalities Act, but he is confronted with acts within the municipality which have caused this country great problems, great consternation. And I am sure Members opposite would say, *Well, yes! There's a lot of room to go around.* Yes, but this Minister, today, must act on what has been done in past, evaluate it and craft that way forward to the future that our Leader so ably speaks about and his team works toward, working toward that future.

It has been a mess! It has been a mess. No less than the mess to our reputation when the previous Government cancelled a contract. That is a mess! That is a mess, when persons looking to do business in this country look at how we would act. And, you know, the same people would get up and say, *You put us in $1 billion of debt, or $2 billion of debt,* and not look at the speck in their own eye when they put us in $1 billion of debt in less than four years. But they can justify that and ignore the fact that the Government, the Progressive Labour Party Government, since 2008, had to deal with the most egregious social situation presented to this country since World War II. How it is going to allow its people to survive?

And I have often said, 250 million times 4 is a billion dollars any way you add it up! And when you weigh that up against the social responsibility of the fact that, in this country, where black Bermudians only found solace in work in the civil service and white Bermudians enjoyed better opportunities in work in the private sector, and all statistics point to these economic and social disparities that exist, rampant in this country and adversely impacting the black community, and then the Honourable Member from St. George's, rightly so, who is a numbers lady, speaks to a 100-year-old Act and how that Act was crafted in another period, the persons do not want to look at that.

I know what it is like to be in Opposition and spend your time finding ways, you know, *How are we going to tickle up the Minister?* I know all about that. But you must take the opportunity to look at what the Minister must do. And the Minister has a responsibility to look back over the course of these whole goings-on, to make the right decision for all of Bermuda. The Town of St. George's is a municipality that impacts St. George's, and I will speak to that. The City of Hamilton is not for the City of Hamilton, you know. The City of Hamilton is the capital of Bermuda! Let me repeat that. The City of Hamilton is the capital of the entire Bermuda. It is not the City of Hamilton for only wealthy business owners, and they have a responsibility to participate in this economy. What has to be done has to be done for the collective [good] of this country, as it relates.

We have only seen it just this week when there were difficulties. And then a decision had to be made, and, I think, the right one, where Dockyard was used or St. George's could be used to meet the challenge that existed and the impediments that would have been caused had we not been able to get our freight coming in. So it shows you the impact of the City of Hamilton for the entire country! You know? We St. Georgians like to think that we can close off the bridge. We have got our airport, we have got our docks. And, you know, we can make you pay our tax, and we will be able to raise our money quite fine, thank you very much. But, you know, that is good and

well and fine, and that would be further enhanced when we get the Cup back.

But I am going to tell you this, Mr. Speaker: You cannot negate your realities of the importance of the City of Hamilton to this country of Bermuda. And you cannot negate the role that the Minister responsible for these municipalities has. So that is why, you know, I have to sort of take a step back and look at what the Minister is trying to achieve. Now, I take the Minister as the Honourable Members have tried . . . they tried a little backhanded, *Oh, you're wonderful.* But if anybody else was there, it would not be so wonderful. Collectively, we, the Progressive Labour Party as a team, made the collective decision not to act irresponsibly like the OBA on the airport the way they did with the waterfront! Or else this country would be twice-over facing dire reputational problems. And I think that needs to be properly understood.

So, as the Minister offers to us all a period of reflection . . . and let me take this opportunity to thank all of those members who serve the corporations, as councillors, mayors, and (there are no longer aldermen) persons who work there who might be affected, for their service because I know they do it in good faith. But you cannot be there today and not look at the long litany of mess, that sorting-out is beyond your control! We in St. George's might say, *Well, you know, all that has been happening, it has not been with us.* But the Municipalities Act, you know, puts all of us under that same umbrella.

And the Minister, whom the Opposition is prepared to congratulate on being a good Minister, has [stated in] good faith that his Government—because it is collective responsibility; he does not speak on his own, he speaks collectively—has given the undertaking that consultation will be had. And the Honourable Member from constituency 1; the Honourable Member from number 2; the Honourable Member from number 3, who lives in number 1; and the Honourable Member from number 4, who has persons in that community, in St. George's in particular, will make sure that this takes place. But we do not have to do that, because I take the Minister at his word. He would not put it in writing and go back. So we have got a lot of rectifying to do, Mr. Speaker, on this level.

Now, let me say this. I put on my St. George's blue-and-blue hat and say this.

[Inaudible interjection]

Mr. Hubert (Kim) E. Swan: No, no. I am going to be very measured and quiet.

We in St. George's were once the capital. And there was a time when persons referred to us as a working town. I have been canvassing down there for quite some time, and I remember a gentleman whom I canvassed. He is dead and gone now.

But he says, *Kim, I want you to remember we are a working town.*

I said, *I appreciate that.*

I remember another deceased former legislator, sat in the other place, who said, *Every time you get, you certainly make sure you mention St. George's.* May my good friend from Stokes Point, the late Norman Roberts, rest in peace and his family be comforted by the good work that he did in that regard.

Let me say this, that where the Minister mentioned sewage and the marina, let me say this, Mr. Speaker. That it is important that we get those projects sorted out. That the left hand and the right hand speaking to this Ministry and that Ministry, that is going to be the opportunity to do that now, Mr. Deputy Speaker. It is here in St. George's!

I know, having served in a quasi-civil service capacity for a number of years in St. George's, know the importance of not only having a sewage treatment plant, but having it integrate with the infrastructure that exists in St. George's and the infrastructure that is coming to St. George's, and now the other infrastructure that might be foreseen for St. George's. So that the opportunity to move the old town into a modern area, as it relates to availability of water within the municipality and the disposal of sewage, which today, like in other portions from Hamilton, goes out to sea off of Great Bay, and in St. George's off of RA or off of Bourne Drive, is eliminated.

But that opportunity is presenting itself now. And if you have not gathered, Mr. Deputy Speaker, I am doing a little bit of lobbying, ever so gently, to the Minister. We have heard, certainly, persons in St. George's are very partial to policing [having] a presence there, and certainly fire, with our narrow roads and stuff, where persons do not know how to get [around]. But those types of services will be enhanced, Mr. Deputy Speaker, when we have the vibrancy of that marina, and the hotel function, and these infrastructure issues are tied together.

So, as the Minister has promised—not only promised consultation, he said that the consultation has already commenced. I am only furthering that consultation by throwing it out there now that, along with the consultation will be some serious lobbying, as well, to make sure that this type of thinking happens during this particular time.

Mr. Deputy Speaker, I certainly want to echo that of my colleague, who also speaks for the Town of St. George's, to say that in many ways we are very unique and a special place. We are all about a town with some very special buildings and customs and practices that have earned us a World Heritage Site status. But we are a small town in a wonderful Bermuda. And we certainly are here to work with the Minister and do all we can to help make that consultative process that he promised us work as it relates to our town. And I would urge others within my earshot, as it relates to the City of Hamilton, to also be that lobbying voice and that participation, participating person in the

consultation period that is going to take place so that we can get the best structure crafted.

And let us not forget that, for quite some time, it has not been right. The Minister has decided, in the way in which he has chosen to execute it, to have a period where he can look at it and he can get the right forces in place to put it right. But we cannot—we cannot underscore the fact, Mr. Deputy Speaker, that the actions of the One Bermuda Alliance, the actions of the One Bermuda Alliance caused this country to be at odds with itself, caused persons to march on any number of issues as it pertained to the way in which they governed. So, criticising us for coming [to power] in July and taking a period where we are going to consult, taking a way in which we are going to listen—we had to! Because this country needed to be assured that it will be settled down.

How many, as I conclude, Mr. Deputy Speaker, how many persons who had been wound up tight by the actions of the past Government have passed on to their reward with the levels of stress that they were put under in its way of governance? How many? I wonder how many. And, yes, as they look for the argument to make, *Damned if you do, Minister. Damned if you do, Minister. You're damned if you don't.* But I tell you what—keep on, and we are here to work with you to achieve a better Bermuda for us all. Thank you.

The Deputy Speaker: Thank you, Honourable Member.

Any further speakers?

The Chair recognises the Honourable Member, Rolfe Commissiong, from constituency 21.

You have the floor, Member.

Mr. Rolfe Commissiong: Mr. Deputy Speaker, thank you for acknowledging me.

Look. The bottom line is we have a corporation which is totally dysfunctional. It is representative of an archaic, dare I say, anachronistic form of government. I accepted with a grain of salt the evocations of the Member from constituency 22, who talked about the democratic processes and the democratic life that informs the deliberations of the Corporation and the elections, and all the rest. Well, where was he when the decision was made to, in a retrograde way, return the franchise under the essential or dominance of the business owners in the city? Certainly, you cannot say that that was a move towards greater democracy of the Corporation.

The Corporation for a long time has been the special preserve, the privileged preserve of a very small number of largely white merchants throughout the years. That culture, that legacy, despite the different shade of those who now man the Corporation, is still with us today. We have to move the country forward, and we intend to do so. I know that is an often-used cliché, and forgive me for using it once again. But I have always thought of Bermuda, and Hamilton in particular, as being the centre of what we know as this emerging city-state, a country that was able to box well above its weight in various global markets upon the world stage. And I believe that we are preparing ourselves to move into the next stage of that development, again, as Bermuda, as this new dynamic city-state.

And to do that, we have to ensure that the centrepiece of this framework, this model, if you will, the City of Hamilton, can be fit for purpose to take us to this next level. We have a significant change, for example, in the height restrictions. We have ensured now that developers can build above the old restriction imposed with respect to the Anglican Cathedral, for example. So, these are the changes that are necessary for us to again make the Corporation and the legislation that governs it fit for purpose in this 21st century context. And I, too, echoing my colleagues, support the Minister.

Again, just as the Member from 21 *[sic]* was acting very rich with respect to the evocations of *democracy this* and *democracy that,* he also ignores the fact, which I am glad that one of the Members prior to me brought out, that the most egregious example of bad governance that we have seen in some time, that being the, not rescinding, but the decision to make void a contract entered into legally by two parties, those being the Corporation on one hand, notwithstanding the anonymous source in the paper today, and Mr. MacLean. If anything was designed to contribute to the notion that Bermuda is somehow rife with these types of practices, in turn causing reputational damage, it was that.

Secondly, the notion that somehow the Minister is acting in a sort of underhanded, dictatorial fashion . . . I mean, compared to former Minister Michael Fahy—I repeat. Compared to former Minister Michael Fahy, who desperately now, the newspaper controlled by the merchant class is trying to puff up as some major political scientist and sage . . . Lord knows, they still have not learned from their electoral defeat. But there is no comparison. There is no comparison whatsoever. And it is an insult—an insult for that Member to compare Michael Fahy with Walton Brown, an egregious insult.

Like I said, I am in favour of these changes. I support the Minister wholeheartedly. Let us move forward. There have been a number of cases where we have acted in a bipartisan fashion on a number of key issues. The Tax Reform Commission, the committee to deal with the cost of living, the bipartisan support that we were getting on things like the living wage . . . I would hope that, on both sides, we can put the past behind us and, in a way that is not cynical, give the Minister the benefit of the doubt so that we can both fashion this new Bermuda. Thank you.

The Deputy Speaker: Thank you, Honourable Member.

Any further speakers?

The Chair recognises the Honourable Member Susan Jackson. You have the floor, Member.

Ms. Susan E. Jackson: Thank you, Deputy Speaker.

I just want to take a few moments, since the Corporation of Hamilton, actually, and the City of Hamilton falls within my constituency. And I just want to speak a little to the environment there and making sure that we are able to maintain a healthy community.

What my fear is, Deputy Speaker . . . two things are bothering me. One is that the consultation and the demonstration of consultation, or lack thereof, of the Minister with regard to the announcement that the elections will be delayed for a year and that the legislation will be changed to reflect it, to me is almost deserving of an apology to the Corporation of Hamilton. Those kinds of decisions are the kinds of decisions that are the beginning of what will, hopefully, transpire over the next year. And to see the timeliness, or the lack thereof, of the announcement of the delay in the elections and the changing of the legislation, to me has been way, way too short. And in my opinion, it needs to be respectfully acknowledged as having been too short a period of time of consultation between the Minister and the Corporation of Hamilton and St. George's' councils of this delay.

My other concern, Deputy Speaker, is that, clearly, the elephant in the room is our last frontier, the waterfront in Hamilton. And I just do not want the waterfront to become the focus of, or the underlying motivation behind, any of the changes that are taking place and any of the consultation and conversations that go around. But, ultimately, what we are trying to do is just figure out how we are going to, or who is going to get, I do not want to say *control of,* but I am going to say control of the waterfront.

Because as a representative of the members in constituency 20, of which Hamilton falls, I find that having that local representation is very important. Being able to have a conversation very quickly with the Corporation of Hamilton has certainly improved relations, and it makes it a lot easier to navigate the Corporation of Hamilton, as an example, compared to some of the ministries. And I believe that this is based on the fact that it is just a smaller bureaucracy in the Corporation of Hamilton.

So, you know, absolutely. The change of governance structure, the Minister has mentioned in his brief of Friday, the 9th of March, that we can have a look at things like unitary authority. We can look at consolidation of legal authority so that we are levying taxes, and it becomes more efficient. These are wonderful ideas. But again, I would hate to see these ideas usurped because everyone's attention is on the waterfront.

I also am concerned, and would love to see, through this year-long consultation, things like the overlapping of responsibilities. I have personally spent a very good amount of time speaking with the Corporation of Hamilton personnel to see what can be done about, for example—just all I am asking for is to clean up the bus terminal. Just take a power wash, some water, and spray the baby down. And let us keep it clean. That is where a large influx of the population . . . and the Premier can raise his hands if he wants. But when we are dealing with and negotiating and not able to coordinate with the Ministry of Public Works and the Ministry of Home Affairs, and then you have got the corporation, and nobody can come to any agreement . . .

If we can get that kind of overlapping of responsibilities coordinated, through consultation, so that everybody has clear, distinct lines of responsibility and accountability and are able to produce, then that is fine.

But if we are overrun by and pre-occupied with the waterfront, and if that is the underlying reason why these legislative changes are being made, then it will be a complete disservice to the people, and it will be most unfortunate.

I also would hate to see . . . and it is a nice mention, and I am going to hold the Minister to it that there are opportunities within the Corporation of Hamilton to add additional services and to explore new opportunities. And social services, as the Minister mentioned, would be a great opportunity. But again, if these are the kinds of things that are being used as an excuse for us to have a consultation, and we are not going to actually address these things, but instead we are going to turn our attention to who is going to get the waterfront, then it will be completely disappointing.

So, with that, I just wanted to make it clear, and I wanted to make sure that the listening public understands, that I am going to be paying attention, because I do not want to get distracted by the politics of elephants that are in the room, but that I am concerned and I am looking forward to some kind of consultation that will improve the relationship between the Government and the corporations so that we can have some of our local parochial issues dealt with in a timely and efficient manner.

Thank you, Deputy Speaker.

The Deputy Speaker: Thank you, the Honourable Member.

Any other Members?

The Chair recognises the Premier, the Honourable David Burt. You have the floor.

Hon. E. David Burt: Thank you very much, Mr. Deputy Speaker.

Deputy Speaker, I am not going to be long. What my point is today is clearly, of course, that the Government supports this legislation. But it speaks

more to the lines of what is necessary in order to advance the interests of the people of whom we serve. On July 18th, 2017, the Progressive Labour Party won a mandate. And that mandate was to regenerate the country, to bring economic growth, to make Bermuda work better and to build a better and fairer Bermuda.

Part of delivering on that mandate is ensuring that we can move projects forward and get them moved ahead. And what we have seen is what many have referred to as a dysfunctional structure. It is not necessarily the fault of the Corporation of Hamilton. And it is not necessarily the fault of the Corporation of St. George's. What we have is, we have a system that is not working and is not fit for purpose in 2018.

So what we have decided to do is that we are going to attack it in the most appropriate way. And that was delaying the election, taking the time, a full year to consult, so we get it right. And, hopefully, everyone will be on board. Because I am certain that Members opposite are like the Members in this party, who want to see these projects move forward, who want to see economic growth, who do not want to just hear about what we are going to do about marinas and waterfronts and infrastructure and buildings and all the rest, who actually want to see it happen.

This is our goal. I am confident that the Minister of Home Affairs, through this consultation process, will get it to work. And we will hope to work with both corporations and those persons who are interested to make a success of this process so we can deliver modern government, where right now we do not have much governance at all. Thank you, Mr. Speaker.

The Deputy Speaker: Thank you, Honourable Premier.

Any further speakers?

The Chair recognises the Minister in charge.

Hon. Walton Brown: Thank you, Mr. Deputy Speaker.

It has been an interesting debate. I want to thank my colleagues on this side of the House for their support of this initiative. It is bold, and it is necessary.

I will just take this time to respond to the comments made by Members of the Opposition, most of which were hyperbolic in their content and delivery. But it does merit some response.

First of all, anyone who feels aggrieved by the delay in the election, who is a current member of the councils of either St. George's or Hamilton, can actually resign and force an election. No one is compelled to stay on. We decided to opt for the deferral rather than amend legislation to have the persons hold office for one year and then bring about the reforms. It was better and more economically efficient to suspend the election rather than to have one election now and then another election next year once we had made the necessary changes.

For all of those who expressed these views about the essence of democracy, it is just contrived anger. It is contrived outrage. This is an inherently democratic process. What we will do is consult with all key stakeholders on the reform process. What this legislation does today is delay the legislation and then give the Government the authority and the ability to proceed on some of the major infrastructure projects. It does not take over the Corporation. It allows us to have the flexibility to pursue those projects as a matter of vital national interest for the country.

[Hon. Dennis P. Lister, Jr., Speaker, in the Chair]

Hon. Walton Brown:

So, I have little patience and tolerance for hyperbolic comments that are not even rooted in clear logic. And that is what we have had today, this notion about democracy being under attack. And to make an inference that we are getting akin to some renegade, autocratic country is just an insult, Mr. Speaker. It does not require a full response. For the Shadow Minister of Home Affairs to indirectly attempt to attack my credibility and integrity does not merit a response other than what I could say, a WTF response. You know, *What's that, Fred?* sort of response. But I will leave that alone, Mr. Speaker.

The Speaker: Please do.

Hon. Walton Brown: Yes. I have left it alone.

[Inaudible interjection]

Hon. Walton Brown: The other point. This idea here of going back into the Hansard and quoting me from two or three years ago, as if this is the *gotcha* moment. Put things in context.

It reminds me of a university student who is writing a paper and just extracts the comments from a book that support his argument or her argument. Put it in context. What the OBA Government did was deny certain rights and privileges, attack democracy in what it did, offering nothing by way of consultation, nothing whatsoever. So my attack on the OBA was an attack on their denigration of the democratic experience.

What we are doing is ensuring a truly democratic, participatory process so that the public, the voters, the ratepayers and the general public can have a say in this reform process. It is inherently democratic. And for anyone to argue otherwise, again, you are just trying to appease certain interests or engage in hyperbole.

I think those are all of the comments I will make at this point, Mr. Speaker.

The Speaker: Would you like to move us into Committee?

Hon. Walton Brown: I move that we do move into Committee, yes.

The Speaker: Thank you, Honourable Member.

Honourable Minister, we will now move into Committee.

I will call on the Deputy to come back to the Chair.

House in Committee at 6:33 pm

[Hon. Derrick V. Burgess, Sr., Chairman]

COMMITTEE ON BILL

MUNICIPALITIES AMENDMENT ACT 2018

The Chairman: Honourable Members, we are now in Committee of the whole House for further consideration of the Bill entitled the Municipalities Amendment Act 2018.

Minister, you have the floor.

Hon. Walton Brown: Thank you, Mr. Chairman.

I am going to move clauses 1 through 5.

The Chairman: Are there any objections to moving clauses 1 through 5?

There appear to be none.

Continue.

Hon. Walton Brown: Mr. Chairman, this Bill amends the Municipalities Act 1923 ("the principal Act") to provide for the Minister to authorise public officers to attend meetings of the corporations, for the Minister to give directions and take stewardship or temporary control of a corporation in certain circumstances where he believes it is in the best interests of Bermuda, and for the next ordinary municipal election to be held in 2019, not 2018.

Clause 1, Mr. Chairman, is self-explanatory.

Clause 2 amends section 7(10A) of the principal Act to provide for any public officers who are authorised by the Minister to do so to attend, be heard at, and receive minutes of any meeting of a Corporation (Corporation of Hamilton or Corporation of St. George's).

Clause 3 amends section 7AA of the principal Act. Section 7AA(1) is amended to provide that the Minister may give—

[Inaudible interjection]

Hon. Walton Brown: I am just going to have a strategic pause, Mr. Chairman.

[Pause]

Hon. Walton Brown: Clause 3 amends section 7AA of the principal Act. Section 7AA(1) is amended to provide that the Minister may give written directions to a Corporation if he considers it to be in the "best interests of Bermuda" for him to do so. (Currently, he considers the "public interest.") This makes it clear that the interests of the whole of Bermuda are to be considered, not only those of the municipal area in isolation. Section 7AA(1A) is inserted, and provides that any act or thing required to be done by such directions shall be deemed to be for municipal purposes, and is a function of the Corporation.

Section 7AA(3)(aa) is also inserted, and makes it clear that a Corporation may be directed to do any act or thing that the Minister, acting under the general authority of the Cabinet, requires the Corporation to do. As provided by section 7AA(1A), any such act or thing shall be deemed to be done for municipal purposes, and is a function of the Corporation.

Clause 4 amends section 7B of the principal Act. Section 7B(6) is amended to provide that the Minister may, in certain cases where he believes that it is in the best interests of Bermuda (rather than the current "public interest") to do so, take stewardship of a Corporation's infrastructure, function or service in order to repair, maintain or improve it, until he is satisfied that the repair, maintenance or improvement project has been completed.

Sections 7B(6A) and 7B(6B), which provide for the temporary control of certain functions of a Corporation in certain circumstances, are also amended to replace "the public interest" consideration with "the best interests of Bermuda."

Clause 5 amends section 9 of the principal Act to provide that the next ordinary municipal election shall be held in 2019 and states, for the avoidance of doubt, that an ordinary municipal election shall not be held in 2018. Thank you, Mr. Chairman.

The Chairman: Thank you, Honourable Minister.

Any further speakers at this time?

The Chair recognises the Honourable Member Grant Gibbons. You have the floor.

Hon. Dr. E. Grant Gibbons: Yes, thank you, Mr. Chairman.

Mr. Chairman, under clause 4, which is amending section 7B, obviously I had expressed some concerns during the general debate. But under clause 4, section 7B(6), where the word "temporarily" is deleted both times, would the Minister please explain why it is necessary to delete the word "temporarily" and exactly what he has in mind there? Because there was a rationale for leaving "temporarily" in there before when this was amended the previous time, in 2015. And that was to make sure that there was not what I will say an open-ended stewardship of the assets of the Corporation, which would, essentially, take it out of the hands of the Corporation, could be

for an unspecified period of time. So, why is it necessary to remove the word "temporarily" here?

Thank you, Mr. Chairman.

The Chairman: Any further speakers?

The Chair recognises the Honourable Pat Gordon-Pamplin.

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

Mr. Chairman, my question is a very brief one. And that is, on page 2 of the Bill, under clause 4, which amends section 7B. I mentioned it actually in the full debate. And the question is, the Minister has here that he is deleting "public interest" and substituting "best interests of Bermuda." I am just wondering whether the two are not synonymous and why the distinction between the two?

The Chairman: Any further speakers?

There appear to be none.

Minister, you have the floor.

Hon. Walton Brown: Thank you, Mr. Chairman.

The language regarding "temporarily" and its removal is based on legal advice, to allow the Minister the flexibility to determine the duration of a period of stewardship regarding a particular project.

The issue regarding "public interest" versus "for the interests of Bermuda," there was actually a court judgment that I refer to in my Statement that specified the limitation that the Mexican Infrastructure Finance [MIF] entity versus the Corporation, they had an issue in terms of the ability to engage in that contract because of the notion about public interest versus the interests of Bermuda as a whole. And so, we have been able to clarify that in this proposed legislation.

The Chairman: Any further speakers?

The Chair recognises the Honourable Grant Gibbons.

Hon. Dr. E. Grant Gibbons: Yes, thank you, Mr. Chairman.

The Minister got me part of the way where I was interested in going with the word "temporarily." He said it was because of legal advice he received. But, in essence, if you look at this in the full context of it and you have the words now inserted where you can improve an asset or infrastructure or function or service, in essence what could happen here—and I do not think I am being truly hypothetical—is the Minister could take stewardship of the waterfront, could take it for five years, ten years or whatever, until the Minister, which is part of the amendment here, is satisfied that the improvement has been completed.

So, in essence, this provision really allows the Minister, for an unspecified period of time, open-ended, to be able to take stewardship of one of the Corporation's assets. The waterfront would be a good example. Could the Minister confirm that this is the case?

The Chairman: Any further speakers?

The Chair recognises the Honourable Pat Gordon-Pamplin.

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

Mr. Chairman, just for clarify, with the Minister's last response it does not necessarily tie with what the actual quotes from the judgment indicated. And the judgment indicated that the *ultra vires* action, among other things—the *ultra vires* action did not relate to the function of the local government of the City of Hamilton in particular. So it says it would basically benefit the whole Island.

So I think my question still stands inasmuch as "public interest" is the interest of Bermuda. Public interest and the best interests of Bermuda seem to be synonymous to me, and therefore I am just not sure. If the Act presently said, *functions of the local government,* then I can understand the move. But the Act now says *public interest.* And public interest has got to be synonymous with the best interests of Bermuda. So I am just confused as to why the distinction.

The Chairman: Minister, do you want to respond?

Hon. Walton Brown: Mr. Chairman, I do not understand why there is confusion. Public interest is a much different focus than the interests of Bermuda. Public interest could refer to the matter that had nothing to do with benefits. It could be a public interest, but not of benefit. This speaks specifically to the benefit to Bermuda. And that is why we are looking at using that language.

With regard to the question from the Honourable Member Gibbons . . . He is going to have to remind me of the question.

The Chairman: Yes. Okay. Go ahead.

Hon. Walton Brown: Oh, the "temporarily" part. Yes, I got it. I got it, yes.

Again, it is language that was recommended by legal counsel. It could be seen as temporary, as well. But it is to show that it is more precise than being temporary because it shows that the Minister will have authority to remain in control of that project until such time as the Minister is satisfied that it is completed.

(I am just trying to read these notes here.)

All right. Exactly. So, I anticipated the legal counsel's response, to ensure that we have satisfaction that the matter has actually been fully completed.

The Chairman: Any further speakers?

The Chair recognises the Honourable Pat Gordon-Pamplin.

Mrs. Patricia J. Gordon-Pamplin: Sorry, Mr. Chairman.

The Chairman: That is okay.

Mrs. Patricia J. Gordon-Pamplin: The disadvantage of being short, you know, people tower over you, bump into you—

The Chairman: Well, my sight is failing . . .

[Laughter]

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

Mr. Chairman, again, in clause 5, "an ordinary municipal election shall not be held in 2018." So, this is still giving rise to the fact that an election of some sort will be able to be held if you did not have an en bloc resignation of the existing members, because they are now being asked to stay on from 2018 to 2019. So, unless they resign en bloc . . . let us say one or two resign, you will have a special election to fill those positions. What would happen, what is the circumstance if they all decided to resign en bloc? Would that not require an ordinary municipal election? Or would they all be deemed to be special elections?

The Chairman: Any further speakers?

Minister, go ahead.

Hon. Walton Brown: If everyone resigned tomorrow, then it would force an election. I do not understand what the issue is. If everyone resigned tomorrow, there would be an election. And the election term would be until 2019, because we are here amending the legislation to make the next election in 2019.

The Chairman: Any further speakers?

The Chair recognises the Honourable Grant Gibbons.

Hon. Dr. E. Grant Gibbons: Yes, thank you, Mr. Chairman.

Mr. Chairman, I know the Minister will think I am being persistent, but I am looking for a confirmation here that, in essence, the amendments would allow the Minister to take stewardship of the waterfront for an indeterminate period of time. It could be five years, it could be ten years. And it would only depend on when the Minister felt that the improvement—

The Chairman: I thought he answered that, Member.

Hon. Dr. E. Grant Gibbons: Well, I am looking for a confirmation in a very specific way, that the improvement—

The Chairman: Do you want it in writing?

Hon. Dr. E. Grant Gibbons: That the improvement was completed to his satisfaction.

Hon. Walton Brown: Mr. Chairman, that is precisely the wording in the legislation.

The Chairman: Any further speakers?

There appear to be none.

Minister, do you want to move these?

Hon. Walton Brown: Mr. Chairman, I move that clauses 1 through 5 be approved.

The Chairman: It has been moved that clauses 1 through 5 be approved.

Are there any objections?

There appear to be none.

Agreed to.

[Motion carried: Clauses 1 through 5 passed.]

Hon. Walton Brown: I move that the preamble be approved.

The Chairman: It has been moved that the preamble be approved.

Are there any objections?

There appear to be none.

Approved.

Hon. Walton Brown: I move that the Bill be reported to the House as approved.

The Chairman: It has been moved that the Bill be reported to the House as approved.

Any objections to that?

There appear to be none.

[Motion carried: The Municipalities Amendment Act 2018 was considered by a Committee of the whole House and passed without amendment.]

House resumed at 6:47 pm

[Hon. Dennis P. Lister, Jr., Speaker, in the Chair]

REPORT OF COMMITTEE

MUNICIPALITIES AMENDMENT ACT 2018

The Speaker: Members, are there any objections to the Municipalities Amendment Act 2018 being reported to the House?

Some Hon. Members: Yes.

The Speaker: Members, did you hear what was asked?

An Hon. Member: No.

[Laughter and inaudible interjections]

The Speaker: Even though there was a lot of comment in a different direction, I think the matter has been moved. And we will move on.

[Laughter]

The Speaker: Members, the next item on the Order Paper is Order No. 7, the Second Reading of the Proceeds of Crime (Miscellaneous) Act 2018.

And I believe the Minister of Health, the Honourable Minister Wilson, you have the floor.

Hon. Kim N. Wilson: Thank you, Mr. Speaker.

Mr. Speaker, I move that the Bill entitled the Proceeds of Crime (Miscellaneous) Act 2018 be now read the second time.

The Speaker: Continue.

BILL

SECOND READING

PROCEEDS OF CRIME (MISCELLANEOUS) ACT 2018

Hon. Kim N. Wilson: Mr. Speaker, I am pleased to introduce to this Honourable House the Proceeds of Crime (Miscellaneous) Act 2018 (hereinafter, I will refer to it, Mr. Speaker, as the Bill) to address matters pertinent to Bermuda's compliance with international standards set by the Financial Action Task Force.

And if I could just pause for a moment, Mr. Speaker, with respect to this matter. As has been said over and over again today, in fact, as recently as this morning when my honourable colleague, Minister Simmons, also presented another brief, all of these Bills that we will be speaking about today, and the amendments that are being presented in the next few moments, all deal specifically with our international obligations and our requirement to comply with those of the Financial Action Task Force in readiness of the most important mutual evaluation that will be taking place in the fall for Bermuda.

So, if I can say that and put a pin down, because, no doubt, questions will come up as to why are doing it this way versus that way. The answer is, quite simply put, the Financial Action Task Force is requiring Bermuda to adhere to these international standards, all in preparation for our mutual evaluation.

Mr. Speaker, the assessment of Bermuda's anti-money laundering/anti-terrorist financing, or AML/ATF, regime is about to commence. This assessment will be conducted by a team drawn from peer jurisdictions and led by the Caribbean Financial Action Task Force, or CFATF. On March 23rd, Bermuda will make its first submission to the assessment team, followed by the second submission on May 23rd. The assessment team will visit Bermuda for two weeks, starting on September 24th, to undertake the onsite portion of the assessment. The amendments contained in this Bill are geared to support the continued enhancement of Bermuda's AML/ATF regime; therefore, the improvements brought about by these amendments will benefit Bermuda's submissions to the assessment team and, when implemented, will support Bermuda's argument for having an effective AML/ATF regime.

Mr. Speaker, the Bill amends several pieces of legislation, namely, the Proceeds of Crime Act 1997; the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, the Trustee Act 1975, and the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008.

Mr. Speaker, as part of our ongoing efforts to enhance Bermuda's compliance with FATF standards on combating money laundering and terrorist financing, this Bill seeks to advance the effectiveness of Bermuda's international financial sanctions regime by providing the legislative framework for compliance monitoring. Accordingly, the AML/ATF responsibilities of supervisory authorities are being extended to include monitoring of the regulated sectors for compliance with international financial sanctions obligations. At present, Mr. Speaker, there are no compliance monitoring arrangements included within the various legislation extended by the UK to its Overseas Territories, which prescribe the international sanctions requirements.

Mr. Speaker, in this legislation supervisory authorities are also being required to coordinate and cooperate with each other to promote greater consistency in their approach to AML/ATF supervision of regulated entities and to maximise the effectiveness of all supervisors.

Mr. Speaker, this Bill also aims to rationalise the existing money laundering offences established under the Proceeds of Crime Act 1997, to ensure that the legal concepts and evidential requirements among them are consistent and legally sound. As a result of necessary amendments previously made to two out of the three main money laundering offences in the Act, the third provision still utilises now-outdated terminology and concepts, with the result that this provision is less likely to be used when charging decisions are made. This amendment will allow prosecutors to make sound charge decisions on money laundering to address the widest array of money laundering activities

while being able to apply the most pertinent of any of these three provisions.

Mr. Speaker, international money laundering experiences identify many cases where persons engaged in money laundering have misused legal vehicles, such as trusts and companies, for that purpose. Therefore, to promote the transparency of trusts, the Financial Action Task Force mandates that countries should ensure that trustees maintain information on the identity of the settlor, protector, trustees, beneficiaries and any individuals otherwise exercising control over the trust. Bermuda's Trustee Act already partially addresses this FATF requirement. Therefore, in order to continue to preserve Bermuda's good reputation in this regard, this Bill will expand the existing requirements in the Trustee Act to include the maintenance of information on the protector of the trust and on any individual exercising control over those trusts.

Other amendments to the Trustee Act will also require trustees to keep current information on the names and addresses of the service providers who provide professional services to the trust, and to identify themselves as the trustee to professional service providers whenever they do business with such service providers on behalf of the trust, of which they are the trustee.

Mr. Speaker, the amendments to the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 that are contained in this Bill will address a range of matters to conform more precisely to the technical requirements of the international standards.

Therefore, (a) the Bill revises the definition of "beneficial owner" in relation to trust to remove the threshold limitation of 25 per cent interest in the capital of the trust property. The existing definition is inconsistent with the FATF methodology and standards on this issue;

(b) The Bill also enhances due diligence requirements to ensure that when financial institutions and other regulated entities are doing due diligence on customers who are legal persons, or trusts, that they obtain information about the legal powers that regulate and bind the customer's operation. Also in relation to customers who are legal persons or trusts, financial institutions and other regulated entities will be required to obtain sufficient information to enable them to understand the nature of the customer's business;

(c) Amendments are also made to the customer due diligence, or CDD, requirement, which prescribes the action to be taken by financial institutions and other regulated entities whenever they are unable to comply with the CDD requirements in the regulations. FATF requires that, in such circumstances, the institution or regulated entity should be mandated not to open an account or carry out transactions for a customer. The language in the existing provision in the regulations is unclear, and it will be clarified by this Bill.

Mr. Speaker, further amendments to the Bill also include the following: expanding the requirement by financial institutions and other obligated entities to carry out appropriate due diligence on existing customers who become politically exposed persons, or PEPs. At present, the regulations only apply to the conduct of due diligence on new customers who are PEPs. The next one relates to revising the record-keeping obligations to ensure greater clarity in the requirements and to ensure that they are more precisely aligned to the technical requirements in the FATF standards and methodology; and finally, updating the prohibition on the opening of anonymous accounts to extend that prohibition to the opening of accounts in (quote) "obvious fictitious names."

Finally, Mr. Speaker, being mindful that the revised recordkeeping requirements will necessitate a period of adjustment in order for industry to make the necessary modifications to their recordkeeping systems and protocols, transitional arrangements are included in this Bill for this purpose. This will allow industry an initial period of six months to make the necessary changes in order to become fully compliant with the revised requirements. Supervisory authorities will be responsible for monitoring the processes.

To reiterate, Mr. Speaker: The proposed amendments will, amongst other things,

1. modernise the money laundering offences in the Proceeds of Crime Act 1997;
2. lay the foundation for sound cooperation and coordination between Bermuda's supervisory authorities, and promote compliance-monitoring by them in relation to international financial sanctions;
3. strengthen the customer due diligence requirements in relation to customers who are legal persons and trusts, beneficiaries of trusts, and to politically exposed persons; and
4. enhance the legal requirements in relation to trustees.

And, Mr. Speaker, in closing, Bermuda remains committed to working to achieve full compliance with the international standards, and this Bill is one step further in our journey to achieving that.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister.

Does any other Member wish to speak?

I recognise the Honourable Member, the Deputy Opposition Leader. Honourable Member, you have the floor.

Ms. Leah K. Scott: Thank you, Mr. Speaker.

Mr. Speaker, this continues the raft of legislation that is being imposed upon us in terms of beneficial ownership and transparency. I am going to present this in a story, because I do not think people ac-

tually really understand the impact of all of the legislation, the regulations, that are being imposed upon us by the OECD [Organisation for Economic Co-operation and Development].

So, Mr. and Mrs. Trott have five children. Among those five children, they have 15 grandchildren. Mr. and Mrs. Trott have a property, and that property was acquired in a trust. Their family friend, Mr. Jones, acts as the trustee of the trust. Mr. and Mrs. Trott are up in years. And they just want to spend the rest of their years living an easy, simple life.

How does this legislation that is before us now impact Mr. and Mrs. Trott? Because the fact of the matter is that not all trustees are licensed trustees, there are lay trustees, there are people who act in that capacity who are not aware that they are trustees. So let us start with the first amendment, on page 3, which amends the definition of "regulated agents and service providers."

Well, first of all . . .

[Inaudible interjections]

The Speaker: Yes, you have to . . . You cannot go specific on the clauses at this point. You can do a general discussion around your viewpoint.

Ms. Leah K. Scott: Right, but—

The Speaker: You started off on a good field. You just took a little slip there, but you can step back on solid ground.

Ms. Leah K. Scott: So, what I am saying is, is Mr. Smith, the trustee for Mr. and Mrs. Trott, going to know what an AML/ATF regulated entity is?

The Speaker: No.

Ms. Leah K. Scott: Are Mr. or Mrs. Trott and Mr. Smith going to know what an independent professional is? Are Mr. or Mrs. Trott, or Mr. Smith, going to know what ultimate effective control of a trust is?

And I am raising this point, Mr. Speaker, because I understand the need for all of this legislation. But we also have to take into consideration the ordinary person who acts in the role of trustee, by intention or by default, and how this is going to impact them. And we are going to have people who are in breach of legislation because they are not aware of what the requirements are.

There are, I guess, a number of technical things that I want to address, and I will go through that in Committee. But I am also concerned that we have, at the eleventh hour, received 12 pages of amendments to the legislation. And they are substantive amendments. And again, we have not thought out how this is going to affect just the ordinary person.

With that, Mr. Speaker, I will take my seat, and I will go through all of the technical issues clause by clause in Committee. Thank you.

The Speaker: Thank you, Honourable Member.

Does any other Honourable Member wish to speak?

I recognise the Honourable Member, Mr. Cole Simons. Honourable Member, you have the floor.

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

Mr. Speaker, I listened to the Minister's presentation, and I can say that the legislation is catching up with what already goes on in the industry in the larger trust companies. As she said, when a trust relationship is established, there are certain protocols in place that will have to be followed. We basically identify the trustee. We identify the settlor. We identify the settlor's source of wealth. And we also have to investigate the settlors' source of wealth to make sure that it is not from any illegal or nefarious activities. That is all part of the account-opening process.

Then, we also look at the trustees, Mr. Speaker. And we look at the beneficiaries. And we have to have KYC [know your customer] on the beneficiaries—their age, where they live, in some cases what type of profession they are involved in. So they have to be assessed. And as the Minister said, if they have an investment advisor, because they are a controlling person, we have to do full KYC on the investment company.

We have to show evidence that they are incorporated and regulated. We have to have KYC on any person giving instructions to invest the money for the trust. So if they have any authorised signatories listed, Mr. Speaker, then we have to have full KYC on each person who has an authorised signature.

So, again, the work is already being done in industry. And this is just codifying what is already in practice.

We spoke to the issue of new accounts versus ongoing monitoring. Yes, you have to do a full KYC assessment when you take on the account, and you have to document your files accordingly. You do all the world checks to ensure that there are no hits as far as financial irregularities in the international market on every controlling person, on every person involved. That is all part of the account-opening process. And that also includes the name of your investment person, or third party, who is involved in the trust.

You have to do a world check on every beneficiary. You have to check on where the money is coming from and how the account will be used. And you have to do a check on the proposed counterparties. So if you are paying overseas law firms you have to put that in the application process, and they, too, are checked. So these checks for AML KYC issues are ongoing. And you have to document the evidence

of these checks. So, when you pick up a document file for the new trust, then everything must stand on its own merits, and the trust company and the relationship manager have to ensure that all of the t's are crossed and all of the i's are dotted from a proceeds of crime perspective and also from a risk perspective.

So, this legislation that we have in place is, basically, catching up with what is done in industry.

The Minister spoke about existing relationships. Do we monitor the existing relationships that are already on the books to the same degree that we do new clients who come onto the books? And the answer is an emphatic *yes,* Mr. Speaker. Because we have what is known as trigger events. And a trigger event can be, you know, you have an additional $2 million coming to the trust. And nobody knows what it is for. At that point, before the money is allowed to hit the trust, the relationship manager has to give an undertaking that they will provide details on the source of funds, and they will also have to provide an update to ensure that the existing KYC AML regulations are adhered to. And the file has to answer a complete review.

So, when you have a trigger event, even though you are an existing client, you still have to be fastidious and review the whole relationship, send that to compliance and our lawyers for, again, review. And then, once they are satisfied that the file is current with the current legislation and regulations, they sign off and give it back to the relationship manager. And then, the $2 million that has been moved to the account is allowed in.

So, in essence, my contribution is this. The industry, in particular the larger trust companies, already does this. And it is comforting to know that the existing legislation is catching up with what is already practiced in industry. Thank you.

The Speaker: Mr. Simons, I am going to say thank you for that explanation, from somebody who is in the industry and understands. I had always wondered, how does this affect little Mr. and Mrs. Bermuda?

Anyway, does any other Member wish to speak?

No other Member wishes to speak?

Minister.

Hon. Kim N. Wilson: Thank you, Mr. Speaker, and I thank my colleagues for their contributions in the general debate. And as such, I would like to move that the Bill be committed.

The Speaker: Yes.

Deputy.

House in Committee at 7:07 pm

[Hon. Derrick V. Burgess, Sr., Chairman]

COMMITTEE ON BILL

PROCEEDS OF CRIME (MISCELLANEOUS) ACT 2018

The Chairman: Honourable Members, we are now in Committee of the whole House for further consideration of the Bill entitled Proceeds of Crime (Miscellaneous) Act 2018.

Minister, you have the floor.

Hon. Kim N. Wilson: Thank you, Mr. Chairman. I am trusting that the amendments, there are several amendments, have already been distributed?

The Chairman: Yes. I think that happened.

Hon. Kim N. Wilson: May I proceed, Mr. Chairman?

The Chairman: Proceed, Minister.

Hon. Kim N. Wilson: Thank you.

Mr. Chairman, the preamble.

The preamble explains that the Bill seeks to amend the Proceeds of Crime Act 1997, the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, the Trustee Act 1975 and the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008.

Clause 1, Mr. Chairman, is the citation.

Clause 2 amends the Proceeds of Crime Act 1997 by repealing and replacing section 42 to widen the scope of the offence of prejudicing an investigation, by removing the element requiring a production order, monitoring order or warrant to have been issued in a criminal conduct or civil recovery investigation. The revised provision will, therefore, make it an offence for a person to do an act that is likely to prejudice a criminal conduct civil or recovery investigation in circumstances where that person knows that such an investigation is being conducted; and repealing and replacing the money laundering provision in section 44 to make it more conceptually consistent with the other two money laundering provisions in sections 43 and 45.

Clause 3 amends the Trustee Act 1975 to require trustees, when doing business with regulated professional service providers and other agents on behalf of the trust, to introduce themselves as the trustee to such service providers or agents.

[Loud noise]

The Chairman: We will just take a five-minute break.

[Pause]

The Chairman: Minister, do you want to move the clauses first, 1 through 6?

Hon. Kim N. Wilson: Yes. Thank you, Mr. Chairman.
I would like to move, please, clauses . . .

The Clerk: Do you have amendments? Are they amendments to which clause? We have to do the clause-by-clause. Because, for example, do you have an amendment to clause 3?

Hon. Kim N. Wilson: Correct.

The Clerk: So, therefore, you have to move clauses 1 and 2.

Hon. Kim N. Wilson: Okay.

The Clerk: And it is not very explanatory here with these amendments, at all.

Hon. Kim N. Wilson: May I proceed, Mr. Chairman?

The Speaker: Yes.

Hon. Kim N. Wilson: Thank you.
Clauses 1 and 2, Mr. Chairman. I would like to move for clauses 1 and 2.

The Chairman: Are there any objections to moving clauses 1 and 2?
Carry on.

Hon. Kim N. Wilson: Thank you.
Clause 1 is the citation. Clause 2 amends the Proceeds of Crime Act 1997 by repealing and replacing section 42 to widen the scope of the offence of prejudicing an investigation, by removing the element requiring a production order, monitoring order or warrant to have been issued in a criminal conduct or civil recovery investigation.
The revised provision will, therefore, make it an offence for a person to do an act that is likely to prejudice a criminal conduct civil or recovery investigation in circumstances where that person knows that such an investigation is being conducted; and repealing and replacing the money laundering provision in section 44 to make it more conceptually consistent with the other two money laundering provisions in sections 43 and 45.
Mr. Chairman, thank you.

The Chairman: Any speakers to clauses 1 and 2?
There appear to be none.
Continue, Minister.

Hon. Kim N. Wilson: Thank you, Mr. Chairman. And there is an amendment being proposed for—

The Chairman: Do you want to move clauses 1 and 2 for approval?

Hon. Kim N. Wilson: I thought I just moved clauses 1 and 2.

The Chairman: Yes, you need to move so that we get agreement on it.

Hon. Kim N. Wilson: I would like to move clauses 1 and 2.

The Chairman: Are there any objections to moving clauses 1 and 2?
Approved.

[Motion carried: Clauses 1 and 2 passed]

Hon. Kim N. Wilson: Thank you, Mr. Chairman.
I would like to move clause 3, please.

The Chairman: Continue.

Hon. Kim N. Wilson: Thank you.
Mr. Chairman, and this is one of the amendments that is being proposed.
Mr. Chairman, clause 3 amends the Trustee Act 1975 to require trustees, when doing business with regulated professional service providers and other agents on behalf of the trust, to introduce themselves as the trustee to such service providers or agents. It also requires all trustees of all classifications to retain identification information in relation to the trustees, settlors, protectors, beneficiaries or other persons having ultimate control over the trust for which he is the trustee, and it requires all trustees of all classifications to retain a current record of the names and addresses of the regulated professional service providers and other agents who provide services to the trust in which they are the trustees.
Can I proceed to introduce the amendment, Mr. Chair?

The Chairman: Yes.

AMENDMENT TO CLAUSE 3

Hon. Kim N. Wilson: Mr. Chairman, the motion is to move to delete clause 3(f) to remove the draft subsection of (1)(a) of section 13AA. What effectively has happened is that there is duplication in this provision. It already is contained in [section] 3A in the Trust Act. And as such, my amendment proposal is to remove this section here so that it is not . . .

The Clerk: There is no clause 3(f). I am confused.

[Inaudible interjections]

[Pause]

The Clerk: I am confused. I am confused.

Hon. Kim N. Wilson: Clause 3(f), Mr. Chairman, is found at page . . . (Excuse me.) Yes, it is [section] 3 of the Trustee Act, so it is found at page 4 of the Proceeds of Crime Bill, which is amending . . . if you look at clause 3, at page 3, the amendment to the Trustee Act . . . Mr. Chairman, I am sure you can see it. Amends the Trustee Act 1975. This amendment is to clause 3(f).

The Chairman: Hang on.

Hon. Kim N. Wilson: Do you see where (f) is? It says, "by inserting, after subsection (1)"?

The Chairman: I do not see any 3(f).

[Inaudible interjections]

Hon. Kim N. Wilson: It is in the . . . this is the amendment to the Trust . . . remember, Mr. Chair—

The Chairman: Yes. But, see, what you should have . . . If you are making an amendment to the principal Act we should have that in front of us, because we are going by this here. And that has not been—

Hon. Kim N. Wilson: Well, the principal Bill has been consolidated in the Proceeds of Crime Act.

The Chairman: Yes, but for Members to follow this here, the whole Act should be presented to them. We do not have that in front of us.

Hon. Kim N. Wilson: The provisions that are being amended under the Trustee Act start at section . . . at clause 3 of the Bill, on page 3.

And this amendment that I am proposing now, Mr. Chairman, is to amend clause 3(f).

So we are deleting clause 3(f).

And do you see (f) comes on page 4 at the very bottom? It starts off "by inserting after subsection (1)" . . .

The Clerk: That is section 2A(f).

[Inaudible interjections]

The Clerk: It says clause 3, section 2A(f).

Hon. Kim N. Wilson: No. It is clause 3 of the Bill, which is seeking to amend the Act, under the Trustee Act.

The Clerk: We see that.

Hon. Kim N. Wilson: Mr. Chairman.

The Chairman: Mm-hmm?

Hon. Kim N. Wilson: May I proceed?

The Chairman: I am trying to follow you first. I cannot let you proceed until we know—

[Crosstalk]

Hon. Kim N. Wilson: Thank you. I know, I know. Mr. Chair—

The Chairman: I cannot put anything before the [Committee] unless—

Hon. Kim N. Wilson: Deleting clause 3(f)—

The Chairman: What I am saying to you is that there is no 3(f) in here.

[Inaudible interjections]

Hon. Kim N. Wilson: I am going to stand by, Mr. Chairman, for a moment, and see if the drafters can try . . .

The Chairman: Yes.

The Clerk: Thank you.

[Pause]

The Chairman: They are really talking about 2(f), 2A, really.

[Inaudible interjections]

The Chairman: You have to put it down that way. You cannot just jump over that.

[Pause]

The Chairman: Minister, obviously, this thing needs proper explaining, because it is not drafted clearly.

[Inaudible interjection]

The Chairman: Right. So it has got to be . . . You need to say, after 2A, there is 3(f).

Hon. Kim N. Wilson: Okay, Mr. Chairman.

The Chairman: I have never seen anything come to this House like this before.

Hon. Kim N. Wilson: Okay, Mr. Chairman. Thank you. And I am appreciative of those comments, Mr. Chairman. And I am also thankful to my learned friend

in the Opposition, the Deputy Opposition Leader, who does understand the draft.

The Chairman: No.

Do you know who has to understand it? The Chair has to understand it! Or else it does not move.

Hon. Kim N. Wilson: Okay. So, Mr. Chairman, let me try to break this down.

On page 3, section 3, this Proceeds of Crime (Miscellaneous) Act, Mr. Chairman, is attempting to amend four pieces of legislation in one Act. And what the drafters have advised is that, rather than having four separate Bills here today, such as the Trustees Act, the Companies Act, the Supervision and Enforcement and the Proceeds of Crime Act here, they tried to expedite it by amending all four Acts in one Act.

The other challenge that we have, Mr. Chairman, is that with respect to the mutual evaluation that Bermuda is in the midst of, our first round of submissions are due next week. So it is critically important that these amendments are made today and that the Senate takes care of them so that we can at least start on the road of effectiveness in having our technical compliance requirements met when we do our submissions that are due on the 23rd.

So, I do have to apologise to colleagues here in this Honourable House. These amendments, some of these amendments, Mr. Chairman, were made this morning. So, we are going through this, recognising the importance. I do appreciate . . .

And what I will do, Mr. Chairman, as I go through each amendment, is try to at least also refer you to the page number.

The Chairman: Please.

Hon. Kim N. Wilson: So that we can be on the same page.

So, the amendment that I am speaking about now is at page 4, and it is (1A), Mr. Chairman. And it is seeking to delete that section, because it already appears in section 3A of the substantive Trustee Act 1975, which is what we are amending.

The Chairman: Mm-hmm.

Hon. Kim N. Wilson: May I proceed, Mr. Chairman?

The Chairman: Continue.

Hon. Kim N. Wilson: So, anyway, Mr. Chairman, the motion is to delete clause 3(f), which I have just explained the location, and remove it from the draft subsection.

Ms. Leah K. Scott: A point of clarification, Mr. Chairman.

POINT OF CLARIFICATION

Ms. Leah K. Scott: I am looking at the Trustee Act. And I do not see a section 3A.

The Chairman: Yes, you said 3. Do you mean 2A?

[Inaudible interjections]

Ms. Leah K. Scott: I am looking at the Trustee Act 1975, section—

Hon. Kim N. Wilson: Sorry, paragraph A of the Interpretation Act *[sic]* of the Trust Act *[sic]*? I do not have it in front of me. Paragraph A of the Interpretation Act *[sic]* of the Trustee Act 1975?

Ms. Leah K. Scott: In the Interpretation section?

Hon. Kim N. Wilson: Yes.

Ms. Leah K. Scott: Okay. And then . . .

The Chairman: This . . . this is unbelievable.

Ms. Leah K. Scott: There is no 3A.

An Hon. Member: There is no A.

Ms. Leah K. Scott: There is no A.

The Chairman: Have we got anything else to do?

Ms. Leah K. Scott: There is no 3 or 3A.

The Chairman: This is terrible.

[Inaudible interjections]

The Clerk: Okay. We will have to come back to this.

The Chairman: Look. We will go to the next item. And if you can get this sorted out—because we have got to do it tonight . . . because this is terrible.

The Clerk: This is the next one.

Hon. Kim N. Wilson: Can I go to the next clause, Mr. Chair?

The Chairman: No, no.

Hon. Kim N. Wilson: Mr. Chairman, Mr. Chair—

The Chairman: We will go to the next Order of Business.

If you can sort that out with your technical people . . . because this is confusing to everybody.

What is the next Order?

[Inaudible interjections]

The Chairman: Let me call him. I will return back to the House with the Speaker.

Ms. Leah K. Scott: Mr. Chairman, I recognise that we are trying to get things done on an expedited basis. But I also recognise the importance of this legislation and the importance to this jurisdiction. And sometimes doing things for speed does not make it right. You know, you want to measure twice and cut once. And I do not know that I am prepared to continue through with a piece of legislation that I do not . . . and I am a trust practitioner; I have to report to industry. And I just . . . it is poorly drafted.

The Chairman: I will report back to the House.

[Pause and inaudible interjections]

The Chairman: No, no. I am reporting back to the House.

[The Committee rose to seek clarity on the Proceeds of Crime (Miscellaneous) Act 2018]

House resumed at 7:33 pm

[Hon. Dennis P. Lister, Jr., Speaker, in the Chair]

REPORT OF COMMITTEE

PROCEEDS OF CRIME (MISCELLANEOUS) ACT 2018

The Speaker: Members, let us find out a little clarity on where we are right now. Where we are is that we are seeking the indulgence of the House to allow us to let this matter sit where it is, in a sense, so that clarity can be brought to it. And we will return to it.

Let us move on to the next item on the Order Paper. And during the time that we are dealing with the next item, hopefully, the Minister can get with the technical persons and work out what the issues are. And then we can come back and move back to it.

So my suggestion would be, Minister, Shadow Minister, if you can take the technical people into one of the committee rooms, and just sit down and figure out what the issues are, come back in here and we will pick it back up.

Is the House in support of that?

Some Hon. Members: Yes.

The Speaker: Okay. With that said, we will now move on to the next item. And, hopefully, while we are dealing with that you can get that item resolved.

The next item on the Order Paper is [Order No.] 8. Premier?

It is not a long item, Members. So, for you who are going to be trying to resolve the previous item, we are biding a little bit of time, not much, unless Members would like to make a major debate or conversation out of this. It may be helpful.

Premier.

[Inaudible interjections and laughter]

The Speaker: All right.

Premier, we are going to recognise you. You are on your feet for [Order No.] 8.

MOTION

MINISTERS AND MEMBERS OF THE LEGISLATURE (SALARIES AND PENSIONS) ACT 1975 BE REVOKED

Hon. E. David Burt: Mr. Speaker, I move that the House do now take into consideration the following Resolution:

BE IT RESOLVED that previous Resolutions of this House made pursuant to section 2 of the Ministers and Members of the Legislature (Salaries and Pensions) Act 1975 be revoked;

AND BE IT FURTHER RESOLVED that pursuant to section 2 of the Ministers and Members of the Legislature (Salaries and Pensions) Act 1975, the annual salaries payable to Members of the Legislature listed in Part A and Officers of the Legislature listed in Part B of the table [attached] shall be as set out in column 3 of the table, with effect from the 1st of April 2018 to the 31st of March 2019.

Mr. Speaker, as you have said, this is not a particularly long order.

The Speaker: You can take your time and talk slowly, it will bide some time.

An Hon. Member: Read the numbers off.

[Inaudible interjections]

The Speaker: Yes, yes. Go up and down each line item.

Hon. E. David Burt: I hear a whole lot of persons filibustering, Mr. Speaker. And I suspect that Members will want their opinions recorded in the Hansard so that the Members of the independent salary review board can understand.

But I think what is most important, Mr. Speaker, is that we are in a time of still constrained budgets. And just as public servants received their first pay increase in a number of years, there was a suggestion that there may possibly be the same increase extended to Members of the Legislature. However, this Government wanted to follow the law. And the law is very

clear that we should not be the ones who are determining how much we get paid. That should be handled by an independent body. That was put into place by the former Progressive Labour Party Government, and we are going to make sure that we follow that particular piece of advice.

As I had indicated earlier in my Ministerial Statement, Mr. Speaker, that particular board having been appointed, the law requires for the appointment to that board that there be one accountant. And you will note that on the list an accountant is missing, because the accountant of whom we wanted to appoint was off-Island. She did get back to me, so I had the opportunity to appoint her. But I did not want to announce her name publicly before I was able to appoint her. But we have been in conversation today.

The Speaker: I did account and realise that there were seven names, and not eight.

Hon. E. David Burt: Indeed, Mr. Speaker. The legislation allows for there to be between six and eight members.

But there is one accountant, one lawyer or retired puisne judge, one retired Member of the Legislature, two persons appointed on the recommendation of the Opposition Leader, and three other persons whose qualifications may be suitable enough for them to sit on that particular board. As I had indicated in my Statement earlier today, Mr. Speaker, I consulted with yourself. I consulted with the President of the Senate. And I also had consulted with the Leader of the Opposition to get her recommendations, and, therefore, the names have been put forward.

But I would say, in overall, Mr. Speaker, in the work of which is being done I think that what you would have seen in not only our platform, but some of the things which were in the Government's 100 Day Agenda, is that we want Parliament to work better. And it is the belief of this Government that the more power that Parliament has, or the more effective that Parliament can exercise its right of oversight for the executive, the better decisions can be made for the public. That is the precise reason why we went through the task of wanting to establish oversight committees. And it is our view that that type of work can have parliamentarians do additional work in assistance of members of the executive to help and assist us ensure that we are actually executing the wishes of the people whom we serve in the best way possible.

We cannot be executive as much as we want, may not always have all the right answers. And it is good for Members of Parliament to participate in those committees. So it would be my hope, of course, that there is a schedule of offices. But it would be my hope that persons who are serving on committees, and/or persons who are chairing important permanent oversight committees, may also be incentivised to continue in those roles. And there might be some type of consideration that will be given to them by the Salaries Review Board as well, because I think that those are important positions. We want to use committees more. And I think that committees do assist us in carrying out our functions. So that might be something that the Salaries Review Board will take a look at.

But apart from that, Mr. Speaker, I have done my filibustering right now. It will be up to the Opposition Leader and others to continue to filibuster. But I would hope that this Resolution, of course, would have the support of the House. If this Resolution fails, which some people might be okay with, that means that none of us gets paid.

The Speaker: Thank you, Mr. Premier.

Does any other Member wish to speak?

Remember, we have got time on our hands. So you do not have to race your comments.

I recognise the Madam Opposition Leader. You have the floor.

Hon. Jeanne J. Atherden: I was going to say, *No . . . Mr. . . . Speaker* . . . I will not race my comment.

[Laughter]

Hon. Jeanne J. Atherden: But I think the . . . I only had two questions. And the Premier, Minister of Finance, answered one of them, which is with respect to the accountant who was going to be on the committee. So, of course, I look forward to seeing that.

There was also an indication, I think, if I remember the legislation, that the Premier appoints the chairman of the committee. And I was not certain, because the chairman had not been appointed, whether I was making one-and-one and making three, that the chairman might have been the person who had not been—

Hon. E. David Burt: A point of clarification, if I may, Mr. Speaker, if the Honourable Opposition Leader will yield.

The Speaker: Sure. We will take that. Yes.

POINT OF CLARIFICATION

Hon. E. David Burt: The Premier, under the Act, does have the power to appoint a chairman. A chairman has not yet been appointed.

Hon. Jeanne J. Atherden: No. As I say, I did not want one-and-one making three, to assume that the missing person was going to be the chairperson.

But I think the only other thing I just wondered is that, recognising that I know that this committee has not met for two years and it has just been appointed . . . but I know you also indicated that one wondered, one worries about getting on and having a delibera-

tion. I did not know whether you had tasked this committee with a sort of timeline? Because I am just asking kind of whether you had sort of said that you would like the answer in two weeks' time or a month's time.

So, it is very important, I believe, that this happens, that we have this. But also, I think the people who have been appointed know that they might have to do this not just this year but for the next two years and maybe the years after that, because if you get a committee that understands why you are meeting, understands what considerations you are going to take into place by determining not so much just the fact . . . and I say this because sometimes people forget that we have a job that we do up here.

Actually, they sometimes forget that when the salaries are contemplated it is to compensate people for not only doing the job that we see right here, but all of the extra work that people should be doing in terms of reading legislation, understanding the impact that it has on Bermuda, and also making sure that they research and bring forward suggestions and ideas that are important to the legislation. So, you have to sometimes also look at the salaries that are being paid in relation to what salaries are in the market, the salaries that are being paid in relation to how much time is spent here, the salaries that are being contemplated with respect to the degree of diligence that one is expected to put into the work that is here.

Also, the fact that just being in here is not the end of it, you are expected to . . . if you are a Minister, you are expected to go to all sorts of functions. Even if you are a Member of the Opposition, you are expected to represent the Legislature. You are expected to go out and be representative of lots of different items.

Have I filibustered long enough?

The Speaker: Make many donations, too, right? Yes. Make many donations?

[Laughter]

Hon. Jeanne J. Atherden: And make many donations. Donations of time, as well as other things.

I am just trying to determine whether . . . Do they need about five more minutes? There are others. I mean, I support this. And we try to put forward names of individuals who will make sure that they can contribute to having what I call a broad base of people. Because it is very important that when the recommendation comes through everybody can feel that it is a good recommendation. And at the same time, as the Premier said, we are mindful of the fact that in economic tough times you do not want to be seen as not doing your part, by making sure that we tighten our belts up here the same way that everybody in Bermuda is tightening their belts as well.

So, with that, we support this.

The Speaker: Thank you, Honourable Member.

I recognise the Honourable Member from constituency 23. Honourable Member Gordon-Pamplin, you have the floor.

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

Mr. Speaker, I just wanted to make sure that I am fully cognitive of the motion that the Premier is speaking to. Because I think that we are conflating both the motion and the Ministerial Statement with respect to the committee for pensions and the like. So, the actual motion that we are debating, based on what is on the Order Paper, is purely in respect of Members' salaries. And we are, effectively, repealing the salaries that were in effect up until March 31 of 2018, and we are replacing it with the new schedule, which has not changed, but it is the same amounts, but going forward, to make sure that we are current for the next year.

The Speaker: Yes.

Mrs. Patricia J. Gordon-Pamplin: The matter with respect to the members of the committee, I think it is a side discussion and perhaps not even appropriate at this particular point. But certainly—

The Speaker: We have got time. We have got time on our hands.

Mrs. Patricia J. Gordon-Pamplin: Well, I was just going to say—

The Speaker: So, the Speaker is being very lenient because of time.

Mrs. Patricia J. Gordon-Pamplin: I understand that. And, truthfully, I want to make sure that we do not, you know, mix up what it is that we are meant to be doing. So, I think technically we are saying that we can be paid up until March 31 of 2018, because that was approved last year. At that date, we are no longer authorised to be paid.

The Speaker: Correct.

Mrs. Patricia J. Gordon-Pamplin: We now have a new authorisation to be paid, which is all that should be discussed in this particular Resolution that the Premier has made. And those new salaries will take effect from April 1st and take us through to March 31st of 2019.

The Speaker: Yes.

Mrs. Patricia J. Gordon-Pamplin: The committee that is being referred to may, in its deliberations, come up with a different number for various categories and

the like. But that is not the subject of what it is that we are meant to be approving here tonight. So I think that that has been sufficient filibuster. We see entering the Chamber the hierarchy and the deemed professionals to help us.

The Speaker: Are they smiling? One is limping. What? It was not that bad, was it? Members are coming in here limping now?

[Inaudible interjections and laughter]

Mrs. Patricia J. Gordon-Pamplin: So, I just wanted to support my Leader.

The Speaker: Minister, are you all right?

Mrs. Patricia J. Gordon-Pamplin: No, she is struggling. She is struggling.

Hon. E. David Burt: Service under fire.

The Speaker: Ah, I did not realise committee meetings were that strenuous.

[Laughter]

The Speaker: Member, are you finished? I am sorry, Member.

Mrs. Patricia J. Gordon-Pamplin: That is okay, Mr. Speaker. As I said, I am quite happy to accommodate the House under these circumstances. But I just wanted to say that I definitely want to support my Leader in at least allowing all of the Members here to be paid for the next year, irrespective of what may come out of any further deliberations by any other committee.

So, with those few words, Mr. Speaker, I will take my seat and allow somebody else until my Honourable Deputy Leader comes back.

The Speaker: Thank you, Member. Yes.

I recognise the Honourable Member from constituency 2. Honourable Member Swan, you have the floor.

Mr. Hubert (Kim) E. Swan: Yes, Mr. Speaker. Only in the interest of assisting with the time element, I only want to offer that I am in support of the Resolution. I felt somewhat duty-bound to extend my thoughts on the good services that have been provided over many, many years. And, as I look at the schedule that was provided at the back of today's Order Paper, I certainly have some intimate knowledge of some of the posts that are held—

The Speaker: Ah—ah—ah—ah—ah—ah!

[Gavel]

[Laughter]

The Speaker: I am going to put a bell on there for you just so it hits you every time you jump up.

Continue on, Member. Continue, Member.

Mr. Hubert (Kim) E. Swan: —that are listed here. And I am appreciative that an independent panel will be looking at this matter.

I could not help but note that, having held a constitutional office before, that of Opposition Leader, I am duty-bound to say that that office, and your office, Mr. Speaker, carry great importance and require a great amount of time, as would many other executive posts that are listed here. And I am hoping that persons will fully examine those particular important constitutional roles and put the value that is required, notwithstanding I think the Premier made a very cogent point in pointing out that current economic times have made a lot of things necessary in making sure that prudence and fiscal responsibility are observed.

And I think what persons have seen, certainly in the first eight months of this PLP administration, is that that has not only been talked about, but it has been practiced. And I think the evidence was in the Budget that was so well received.

Once again, and when I mentioned your office, Mr. Speaker, in that I meant no disrespect to the Office of the President of the Senate, as well, as we look in that area. Those are very important offices that are held. And I would encourage, as persons look at those categories and look at the amount of time that gets put into carrying out those particular functions . . .

Only last week, Mr. Speaker, I had the first opportunity to function in a role of that of Acting Whip. And I just want to single out the Whips whom we have had over the last number of years and the current Whips that we do have. Let me say, Mr. Speaker, it is no small task at all, as you are looking about to act on behalf of Parliament and the parties, and corral Members and make sure that speaking orders and all of that . . . It is quite a number of things that get taking place. And, certainly, I appreciate that role.

And if anybody looks at me and says that we are pretty close to getting to that particular spot in the Order, I will be happy to defer, Mr. Speaker.

[Inaudible interjections]

The Speaker: Well, are we waiting for the Opposition spokesperson to come back in.

Mr. Hubert (Kim) E. Swan: Spokesperson? Okay.

The Speaker: Everyone else is back in. Are we waiting for her?

[Inaudible interjections]

The Speaker: You still have the floor then, Mr. Swan.

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

I mean, there are many things I could say. But I will defer to the substantive Minister for this Bill that will follow.

The Speaker: Thank you, Honourable Member.

Does any other Honourable Member wish to speak?

We recognise the Honourable Premier. Honourable Premier.

Hon. E. David Burt: Thank you very much, Mr. Speaker.

Mr. Speaker, I have heard a lot of questions. I will try to answer them as quickly as possible.

Regarding the question from the Opposition Leader, I think I did answer that. I answered the initial clarification that a chair has not yet been selected. She had asked whether there is any particular timeline. They have quite a bit of time, as this Resolution lasts for a year. So, they will take whatever time it is they need to do the research and go ahead and report, noting that any changes have impacts on, of course, the pension funds as well.

So there are lots of things that go into those particular items, which are necessary and required, in order.

But as I said, the law was stated. And in order to put that in place, we have put that in place in this Resolution will stand, unchanged, as is the standard and the expectation, as is was set in law. So, with that, Mr. Speaker, I move that the motion be approved.

[Motion carried: Motion to revoke Ministers and Members of the Legislature (Salaries and Pensions) Act 1975 was approved.]

The Speaker: Any objections to that?

I hear nothing. I assume that it has been passed unanimously.

That brings us to a close of that item, which is actually the last item on the Order Paper.

However, with the indulgence of the House, we had taken a recess on the previous item. And if all Members involved in that are ready to resume, I will now have the Deputy come back into the Chair and we will go back into Committee, so we can resume it.

House in Committee at 7:54 pm

[Hon. Derrick V. Burgess, Sr., Chairman]

RESUMPTION OF COMMITTEE ON BILL

PROCEEDS OF CRIME (MISCELLANEOUS) ACT 2018

[Continuation thereof]

The Chairman: We will resume consideration of the Proceeds of Crime (Miscellaneous) Act 2018.

Minister, you have the floor.

Hon. Kim N. Wilson: Thank you, Mr. Chairman, and thank you for your indulgence, and that of the Speaker, in making the recommendation for us to have a sidebar conversation. I can definitely see the merits of other jurisdictions such as the United Kingdom where, at the committee stage, we have everybody in the same room talking around, getting advice from the technical team and the like. And that was a perfect illustration of why we, perhaps, should consider that at one point.

The Chairman: Mm-hmm.

Hon. Kim N. Wilson: But, needless to say, Mr. Chairman, we were speaking about the amendments, the first amendment to clause 3(f).

The Chairman: Right.

Hon. Kim N. Wilson: I have discussed it. I have explained it in the House. I will take my seat just in case somebody else wishes to speak to that particular amendment.

The Chairman: Any further speakers?

The Chair recognises the Honourable Leah Scott.

Ms. Leah K. Scott: Thank you, Mr. Chairman.

Having met with the Minister and the technical officers, I do understand the clause now. And I am okay with the deletion of the clause 3(f).

The Speaker: Minister. Do you want to move that clause with the amendment?

Hon. Kim N. Wilson: Yes, thank you, Mr. Chairman.

Mr. Chairman, I would like to move clause 3, as amended.

The Chairman: It has been moved that clause 3, with the amendments, be approved.

Are there any objections to that?

There appear to be none.

Approved.

[Motion carried: Clause 3 passed as amended]

The Chairman: Continue.

Hon. Kim N. Wilson: Thank you, Mr. Chairman.

I would like to move clause 4, which also has an amendment.

Clause 4 amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 (1) to authorise the supervisory authorities under this Act to cooperate with each other, and to also cooperate with the Registrar General in his capacity as supervisor for registered charities; (2) expand the statutory responsibilities of supervisory authorities to mandate them to also effectively monitor regulated entities for the purposes of securing their compliance with their international financial sanctions obligations; and (3) include compliance officers amongst the persons who are subject to the fit and proper test.

Mr. Chairman, I would like to move that an amendment be made to clause 4(b), which reads, in clause 4(b) of the Bill, in section 5(1A), and Mr. Chairman, I will direct you to the page. Page 6, Mr. Chairman, do you see 4(1A)?

The Chairman: Yes.

Hon. Kim N. Wilson: Mr. Chairman, are you with me?

The Chairman: Got you. Yes, I am with you.

AMENDMENT TO CLAUSE 4

Hon. Kim N. Wilson: So, the proposed amendment will be to, immediately before the words "for the purposes of," insert the words "and take effective measures." So, it will read, "(1A): A supervisory authority must effectively monitor the relevant persons for whom it is the supervisory authority, and take effective measures for the purposes of securing their compliance with their international sanctions obligations."

Thank you, Mr. Chairman.

The Chairman: Thank you.

Are there any speakers?

The Chair recognises Leah Scott, the Honourable Member.

Ms. Leah K. Scott: Mr. Chairman, thank you.

I had some questions in clause 3. Am I able to ask questions about that?

[Inaudible interjections]

Ms. Leah K. Scott: Yes?

The Chairman: Go ahead and ask.

Ms. Leah K. Scott: Okay. Thank you for your indulgence.

The Chairman: Clause 3.

Ms. Leah K. Scott: On page 4, (2A), the identification of trustee obligations. A trustee generally, and a corporate trustee automatically, identifies himself as a trustee whenever they enter into a transaction. My concern is, how are lay trustees, who generally do not have access to this type of information, going to be able to comply with this? Because if they do not, they are going to be in breach of the legislation.

And I know that the legislation is generally directed to licensed trustees. But we also have to take into account that there are trustees who come . . . executors of wills are trustees, there are constructive trusts, there are bare trusts. So, how is that going to be addressed?

Under section [13A](2A), "A trustee referred to in subsection (1) shall, from time to time, keep a current and accurate record of the names and addresses of the regulated agents and service providers . . ."

What is the objective of this list? And why are we keeping a list of regulated entities? Would it not be better if we kept a list of non-regulated entities whom we are dealing with as trustees?

In clause 3(e), it says that, in section 13AA(1), they want to repeal certain things. But this targets nonprofessional trustees in the Trustee Act in terms of accounts and records for nonprofessional trustees.

The Chairman: What page are you—

Ms. Leah K. Scott: Oh, sorry, page 4 of the Proceeds of Crime (Miscellaneous) Act. See the identification of trustee obligations—

The Chairman: Really, we cannot go back. And once it has been approved and passed, we cannot go back on it.

Ms. Leah K. Scott: Okay. I just wanted answers to my questions. That is fine. I still have questions on clause 4. So, on page 6.

The Chairman: Page 6.

Ms. Leah K. Scott: Clause 4, "The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008—(a) by inserting after section 3(5) the following—" And then it talks about that supervisory authorities may cooperate and coordinate with each other. This is one of the concerns that we raised when the initial ultimate Beneficial Ownership Amendments Act 2017 came in for the Companies Act and the Limited Liability Company Act.

So, my question is, where is the information going to go? And will the supervisory authorities be under the same constraints as the BMA [Bermuda Monetary Authority]? Because, as you are aware, section 3 *[sic]* of the BMA Act talks about supervisory bodies and . . . Sorry, section 5 of the BMA Act talks about the duties of supervisory authorities, and then section 31 talks about secrecy and what they are allowed to disclose and not disclose.

So, we are concerned about what information is going to be disclosed, and what are the constraints that are going to be on any of the supervisory authorities?

The Chairman: You are talking to the amendment, right?

Ms. Leah K. Scott: Yes, sir.

The Chairman: Okay.

Ms. Leah K. Scott: And then, in section (c) on that same page 4 *[sic]*, clause 4(c) amending section 11A(1), they want to delete the word "and" at the end of paragraph (a). This section actually, in the Trustee Act—

The Chairman: Section 11A(1)?

Ms. Leah K. Scott: Section 11A(1). On page 6.

[Pause]

The Chairman: Do I see 11A(1)? Oh, I see it. Yes, I have got you. Thank you.

Ms. Leah K. Scott: So, this clause amends the principal Act, which deals with the fit and proper test. And it requires that a compliance officer now has to be a fit and proper person.

This is fine for a licensed trustee. But how is the lay trustee going to address this? First of all, is a lay trustee going to know what a *fit and proper person* is? And are they going to be required to comply with this? Second of all, is a lay trustee going to know what a compliance officer is and that a compliance officer has to be tested and vetted by the BMA?

And so, I would like to know how they are planning on reaching the lay trustees and trustees who are not aware that they have to meet these requirements. Thank you, Mr. Chairman.

The Chairman: Any further speakers?

Minister, do you want to continue?

Hon. Kim N. Wilson: Thank you. Yes, thank you, Mr. Chairman.

With respect to the question concerning the cooperation, authorities may cooperate and coordinate with each other . . . one of the requirements by which Bermuda will be measured insofar as our effectiveness deals specifically with a recommendation of FATF that says that supervisory authorities must cooperate and coordinate with each other, pool their resources, so to speak, so that they are all on the same page. And we will be measured on how cooperative the BMA is with the Registrar of Companies, with the AML/ATF board, et cetera. So that is in keeping with our regulatory requirements under FATF.

And there are arrangements and MOUs being established between these entities, which, obviously, do speak to the issue of confidentiality and the requirement to ensure that any information that is obtained during that sharing exercise does remain confidential.

As well, Mr. Chairman, with respect to clause 3(c), the lawyers who will establish these trusts, when Mr. and Mrs. Trott . . . as the Honourable Deputy Opposition Leader indicated, when Mr. and Mrs. Trott go and establish a trust, they are likely not to do it themselves. They are going to go to a law firm. And the law firm is going to be the one that is going to set up the trust documents and the deeds. And that lawyer has an obligation to explain to Mr. and Mrs. Trott what a *fit and proper person* is, what the requirements are as to being a trustee, so as to ensure that they are compliant with the AML/ATF regulations.

And that lawyer has the legal obligation, under the Bar Council, as well as the AML/ATF barristers of the CPA [Chartered Professional Accountants] Board, to explain to their clients what the obligations are for AML.

The Chairman: Any further speakers?

Ms. Leah K. Scott: Point of order, Mr. Speaker. I am not sure whether it is a point of order or a point of clarification.

The Chairman: Mm-hmm.

Ms. Leah K. Scott: What happens to existing trusts? You have trusts that have been around, that are homestead trusts. There are a lot of Bermudians who have homestead trusts, and all they do is hold property. And a lot of those trusts have individuals as trustees. So, my question is, I understand going forward, and I appreciate that.

The other thing is that, while the attorney may draft the trust, even advise them of their obligations, there are continuing obligations. And so, are they going to continue to go back to the lawyer to ask what their obligations are? Are they going to get the trust set up one time, take it away and do what they have to do and not be aware of all of the commitments that they have to make, and then, ultimately, be in breach of the legislation?

The Chairman: The Chair recognises the Honourable Cole Simons.

Speak to the microphone, Cole, so that we can hear you.

Mr. N. H. Cole Simons: As the Minister said, you know, you have lay trustees. And I have a real example that I am aware of. I know of a trust that has, the truth is, a housekeeper as the trustee. And it was produced by a law firm. And I am saying, you know, it is irresponsible for the law firm to appoint a family's housekeeper as a trustee. And the lady will not know anything about this. She will not know anything about the regulation. And so, my question is, how do we go after the legal advisors who have allowed this to happen?

The Chairman: Minister.

Hon. Kim N. Wilson: Thank you, Mr. Chairman.

The Chairman: Put your microphone on, please.

Hon. Kim N. Wilson: Thank you, Mr. Chairman.

Well, first of all, Mr. Chairman, this legislation does not speak to, or does not apply to, lay trustees. So, the example, I guess, concerning a Mr. and Mrs. Smith, if they are lay trustees, then these provisions do not apply.

Secondly, I am not sure that I can actually properly answer the question that was asked by the MP from constituency 8, because, obviously, a settlor can appoint whomever they want to be the trustee. And—

The Chairman: Well, let me say I hope you don't answer that, because I took a little fancy to that comment. You are saying a *housekeeper.* A housekeeper could be very well-educated and everything else.

[Inaudible interjection]

The Chairman: Yes. But I do not think . . . I thought that was inappropriate for this House to represent everybody . . . Do not put down housekeepers, please. I do not think that was your intent, now. But I just thought it was not the correct language.

Mr. N. H. Cole Simons: Mr. Chairman, for clarification, I am saying this because, when you act in a trustee role, you should understand the role that you are undertaking.

The Chairman: No, I understand that. I am very clear.

Mr. N. H. Cole Simons: Okay.

The Chairman: And I do not think that was your intent, because you are not that type of person.

Mr. N. H. Cole Simons: No.

The Chairman: I know that for a fact.

Honourable Deputy Leader of the Opposition.

Ms. Leah K. Scott: Yes, Mr. Chairman, thank you.

I just have a point of clarification for the Minister.

POINT OF CLARIFICATION

Ms. Leah K. Scott: She said that this legislation . . . I am not sure if you mean this legislation in its entirety is not going to relate to lay trustees, because the trustee Act [language] actually does address non-professional trustees. So I am not sure how you can carve out certain sections where they do not apply. I am not sure how they are going to do that.

Thank you, Mr. Chairman.

The Chairman: Any further speakers?

Minister.

[Pause]

Hon. Kim N. Wilson: Mr. Chairman, yes. This legislation seeks to strike the right balance. We are trying to ensure that we are compliant with our AML/ATF obligations. Yes, we recognise that there are some persons who may feel that this is somewhat onerous. But at the end of the day, the most important objective is for Bermuda to get through this mutual evaluation as best as possible. And this legislation will take us one step further to doing so.

The Chairman: Thank you.

Hon. Kim N. Wilson: As such, I would like to move clause 4, as amended.

The Chairman: Any objections to moving clause 4 at this point?

Ms. Leah K. Scott: Yes. I have one more question, Mr. Chairman, just in terms of the *fit and proper person.*

The Chairman: Go ahead.

Ms. Leah K. Scott: In the Proceeds of Crime . . . You do not have a copy of this, but if I could just read it to you. It is the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008. And it has a schedule that refers to *fit and proper persons.* And in that Schedule, fit and proper persons are, in the non-financial or business profession, casino operators or dealers in high value goods. And if I may read this to you, please?

The Chairman: Continue.

Ms. Leah K. Scott: "These are persons in the business of dealing in high value goods who, in a transaction or series of linked transactions, accept a total cash payment (in any currency) that is equivalent to at least BMD [Bermuda dollars] $7,500."

So, my concern is, if a person is to be identified as a fit and proper person, how are you going to catch, say, car dealers who sell things that are over $7,500, or furniture stores or art dealers? How are you going to capture that? Thank you, Mr. Chairman.

The Chairman: Minister, do you want to respond to that?

Hon. Kim N. Wilson: I will only respond by indicating, again, Mr. Chairman, this particular provision that we are speaking about, under the Bill, as it relates to [proposed] section 11A(1)(aa), compliance officers' requirement of fit and proper persons with respect to clause 4, the amendment does not relate to a private *[sic]* trustee.

I would like to move clause 4, as amended.

The Chairman: Just one second. Any further speakers?

Hon. Kim N. Wilson: Sorry—a lay trustee, lay trustee, lay trustee.

The Chairman: Okay.

Any further speakers?

Okay, Minister, you can move now.

Hon. Kim N. Wilson: Thank you, Mr. Chairman.

The Chairman: You should turn your microphone on, please. Do you want to move that clause?

Hon. Kim N. Wilson: Yes, Mr. Chairman, thank you.

I would like to move clause 4, as amended.

The Chairman: It has been moved that clause 4, with the proposed amendments, be approved.

Any objections to that?

No objections.

Approved.

[Motion carried: Clause 4 passed as amended]

Hon. Kim N. Wilson: Thank you, Mr. Chairman.

I would like to move clause 5, which also has an amendment.

Mr. Chairman, clause 5 amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 to

(1) amend the definition of "beneficial owner" in Regulation 3(3) so as to remove the 25 per cent threshold and to make it clear that a specified interest in all categories or trust property, not just the capital, will be included in the definition;

(2) updating the list of customer due diligence measures that relevant persons must carry out for customers who are legal persons in legal arrangements to include information of their legal powers and the nature of their business;

(3) revising the requirement in Regulation 9 on what the obligations on relevant persons when CDD measures cannot be completed in order to make it clear that one obligation is that they must not open an account or carry out a transaction for that customer;

(4) relation to enhanced due diligence on business relationships with politically exposed persons, or PEPs, making it clear that the requirements in Regulation 11(4) apply to both proposed new relationships with such customers or existing relationships with such customers, where the existing customer becomes a PEP;

(5) making it clear that the prohibition contained in regulation 13(3) against opening anonymous accounts also applies to opening an account in an obviously fictitious name; and

(6) clarifying the recordkeeping requirements contained in regulation 15(2) and (3) so that it is explicit that CDD information and records, as well as account files and business correspondence for a customer, must be kept throughout the business relationship and for five years after the relationship ends, and in the case of occasional transactions for five years after the transaction is completed. The amendment will also make clear that all transaction records must be retained for five years after the completion of the transaction, provided they are kept in a manner to allow for the reconstruction of individual transactions.

AMENDMENT TO CLAUSE 5

Hon. Kim N. Wilson: And, Mr. Chairman, with your leave, I seek to amend clause 5(c)(iii) of the Bill to replace [proposed] paragraph (j) [of regulation 6(1B)] as follows . . . Mr. Chairman, if I can invite you to look at page 7.

The Chairman: Mm-hmm.

Hon. Kim N. Wilson: And where it says clause 5 amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Act. Yes? (Sorry, Mr. Chairman.) And then, under clause 5(a)(iii)—

The Clerk: [It is] 5(c)(iii).

Hon. Kim N. Wilson: Sorry. Clause 5(c)(iii), where you see (j), we are, effectively, splitting up that provi-

sion. So it will say, (j) will be the "nature of business" and the legal powers. Sorry, hang on, Mr. Chairman.

So, section 6(1B) will say, "(j) nature of business; and (k) an obligation to collect information about the legal powers that regulate and bind a legal person or legal arrangement."

We are doing this, Mr. Chairman, because it is consistent with the POCA [Proceeds of Crime Act 1997 (as amended)] regulations. Thank you.

The Chairman: Any further speakers?

The Chair recognises the Honourable Leah Scott.

Ms. Leah K. Scott: Thank you, Mr. Chairman, and I ask for your indulgence because I have quite a few questions.

The Chairman: Continue.

Ms. Leah K. Scott: So, I am on page 7, clause 5. The first question is under 5(a), "in regulation 3(3), by revoking and replacing paragraph (a) with the following—'(a) any individual who is entitled to a specified interest in the trust property.'"

Previously, they identified a threshold of 25 per cent. And the concern is that, now that they have removed the threshold there is no threshold. We have to do CRS [Common Reporting Standard] reporting for clients who have a threshold of 25 per cent or more. Removing the 25 per cent is going to cause challenges in terms of reporting. So, I would like to know why this is being removed, because it is going to cause some problems in terms of reporting for CRS?

I would also like to know why the definition of a "beneficial owner" is being changed. I know that . . . Because if you look at regulation 6(1B) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations, they talk about a *beneficiary*, not a beneficial owner. So why are they changing this definition?

Regulation 6(1B) pertains to collecting information on a beneficiary, not a beneficial owner. So, if the object is to try to collect information on the beneficial owner, then should not 6(1B) be changed to *beneficial owner,* or leave the definition as it is?

[Inaudible interjection]

Ms. Leah K. Scott: I do not know.

And then, in clause 5(c)(iii), proposed section [6(1B)(k), the one we just amended, "an obligation to collect information" and "the legal powers that regulate and bind a legal person or legal arrangement." What kind of information are they seeking to get?

I know that banks and other institutions do not want, or should not have, a copy of the trust deed. Because once they have a copy of the trust deed, they are deemed to know what is in the trust deed. And so, by having that trust deed, if they contravene the trust deed then they incur liability. So, is that the intent? You know, are you wanting the trust deed . . . What kind of information are you seeking to get to determine the legal powers?

The next one is section 5 . . . no. Okay. Clause 5(d), "by revoking and replacing regulation 9(1)(a) with the following—(a) shall not open an account or carry out a transaction for the customer . . ."

So, what happens if you are in a situation where you have a beneficiary who is not going to provide any information to you? So, you have a bank account. And the bank is asking you for information on the beneficiary, and the beneficiary does not think that they have to provide it, or they do not want to provide it. Is the bank entitled to just shut the entire relationship down because the beneficiary is not going to provide you with any information?

I know that we have had, I think . . . we have lost six clients because of the diligence, the KYC and the due diligence requirements that were thought to be way beyond what was necessary. And, you know, I get it. I understand that we have to be compliant. But I also think that sometimes we border on the ridiculous.

The Chairman: Mm-hmm.

Ms. Leah K. Scott: The other question I had (I am sorry), going back up to clause 5(a), [proposed regulation 3(3)(a)], they want information on "any individual who is entitled to a specified interest in the trust property."

So, a beneficiary may have a vested interest in a property, but that interest can be defeated at any time. So, I am not sure whether this clause is going to be in it . . . I do not know what they are trying to achieve with the clause and what they think they are going to be able to get with the clause.

And I think that is all I have from that section. I think that is it, Mr. Chairman.

The Chairman: That is it?

Ms. Leah K. Scott: Thank you.

The Chairman: Any further speakers?

There appear to be none.

Minister, do you want to continue?

Hon. Kim N. Wilson: Yes, thank you, Mr. Chairman.

A couple of questions, and I have got some answers. I think the first one . . . and I appreciate the question. But if a bank is requesting information from a beneficial owner, and the beneficial owner does not want to provide it, I think that is what we would call a red flag, and that that bank may decide, *Well, you can take your business somewhere else. Because if you want to be secretive about providing information that*

we require, then that may be a challenge. But in any event, the legal—

[Crosstalk]

Ms. Leah K. Scott: Point of clarification, Mr. Chairman.

Hon. Kim N. Wilson: I will yield.

The Chairman: Okay.

POINT OF CLARIFICATION

Ms. Leah K. Scott: Thank you, Mr. Chairman.

There are instances where trusts are established where beneficiaries do not know that there are trusts. There are trusts where the trusts are secret, or they are not entitled to any of the information. There are trusts, generally, the legislation is that if a person is a beneficiary of a trust and they have not yet received a distribution, then they do not have to provide any KYC requirements.

At the time that they do receive a distribution, then they have to provide their passport and utility bill. So there are instances where a beneficiary can rightly refuse to provide information.

The Chairman: Minister.

Hon. Kim N. Wilson: And, likewise, in those instances, it would certainly be up to the bank to determine whether or not, notwithstanding that the beneficiary does not need to produce that information, the banking institution may very well decide, *It is a red flag and I am not going to accept this business.* The legal powers, Mr. Chairman, with respect to that question concerning the powers—the legal powers with respect to what is being asked from the trustees is just for the information about what establishes the legal authority of that trustee—nothing else but what is the actual information that establishes that legal authority.

Mr. Chairman, with respect to the provision under clause 5(a) regs, with the 25 per cent that was referred to, that is a requirement from the FATF. FATF is requiring that that threshold of 25 per cent exists for trust or legal persons. And with respect to the concept of beneficial—

Ms. Leah K. Scott: Point of clarification, Mr. Chairman.

Hon. Kim N. Wilson: I am not going to yield.

The Chairman: Let her finish, and then you get up.

Hon. Kim N. Wilson: Thank you. Thanks.

And with respect to the beneficial owner issue, again this is a concept that is recognised by FATF. And we are meeting our obligation with FATF.

Mr. Chairman, the National Anti-Money Laundering Committee, along with all of the other entities that are assisting in this, have been hiring consultants who have . . . Two of the consultants in particular, Mr. Chairman, one of them was an assessor, who actually assessed Bermuda in our last round of mutual evaluations. The other one helped tremendously with Canada through their assessment. These persons are here on-Island and coming back and forth on missions, and they are looking at our legislation, looking at our regime and showing us where there are gaps.

And they are saying, *This is an area that was identified in Trinidad when we did the mutual evaluation,* or *in Canada. You must address it.* And Bermuda, because we wish to receive a good mark, is being compliant with that. And we are making the recommendations.

So, many people in the industry, and no doubt in the industry that my learned friend and the Deputy Opposition Leader would hear because of the industry in which she works for as a profession there are some concerns that have been raised by professional trustees. However, at the end of the day, Bermuda's obligations for the mutual evaluation are to strike a balance. And we recognise that this is not going to make everybody happy. However, as we have seen in the past in mutual evaluations, where FATF has suggested that you do X, Y and Z in your legislation so you can show how robust your legislation is for effectiveness and technical compliance. That is what we are going to do. And that is what these Bills are doing. And as such, I move that clause 5 be—

The Chairman: Just, just one second—

Hon. Kim N. Wilson: —with amendments—

The Chairman: Yes.

POINT OF CLARIFICATION

Ms. Leah K. Scott: Just a point of clarification, because I think that the Honourable Minister might have said that the FATF says that we have to have the 25 per cent threshold. But this legislation is removing the 25 per cent threshold.

Hon. Kim N. Wilson: That is correct. There is no 25 per cent threshold for trusts, for FATF.

Ms. Leah K. Scott: Thank you.

The Chairman: You can move now.

Hon. Kim N. Wilson: Thanks, Mr. Chairman. I would like to move clause 5, as amended.

The Chairman: It has been moved that clause 5, as amended, be approved.

Any objection to that?

There appear to be none.

Approved.

[Motion carried: Clause 5 passed as amended]

The Chairman: Continue, Minister.

Hon. Kim N. Wilson: Mr. Chairman, I would like to move clause 6, which is the transitional provision. As I have indicated previously during the brief, there are certain obligations that certain businesses will have to abide by, for example, recordkeeping and the like. And this Bill provides for a transitional period of six months to allow these institutions to get up to scratch, and get their systems and policies and procedures in place.

The Chairman: Right.

Any further speakers?

The Chair recognises the Deputy Leader of the Opposition, Leah Scott.

Ms. Leah K. Scott: Thank you, Mr. Chairman.

Just the same question. In terms of the transitional provision, what happens to lay trustees who are not aware of this?

The other thing is that—

[Inaudible interjections]

Ms. Leah K. Scott: I think the supervisory section did not apply. I do not know if this is a whole Act that does not apply.

[Inaudible interjections]

Ms. Leah K. Scott: Okay.

The Chairman: Do not leave me out, now.

[Laughter]

Ms. Leah K. Scott: Oh, sorry, sorry. Sorry, Mr. Chairman. I am sorry. Okay.

Is six months the maximum time available for remediation, or can there be an extension? I see there could be the relevant supervisory authority has to make the extension.

And then, the last question is, if our trust relationship is terminated with the licensed trustee, is there . . . if they have not collected all of the relevant information on the beneficiaries or the settlors, is there an obligation to collect that information prior to terminating the trust arrangement?

The Chairman: Minister.

An Hon. Member: Yes. Yes. Say yes!

Hon. Kim N. Wilson: Mr. Chairman, the transitional provision, I am just reading the question about licensing because the transitional period is speaking to the six months transition. The recordkeeping requirement that I spoke about previously, which is regulation 15 in the Proceeds of Crime Regulations, does not apply to lay trustees. And then the transitional period is, as I said, in the legislation it is six months, but it can be extended by the Minister. Yes.

The Chairman: Yes.

Hon. Kim N. Wilson: Any further speakers?

The Chairman: Any further speakers?

There appear to be none.

Minister, continue.

Hon. Kim N. Wilson: Mr. Chairman, I would like to move clause 6.

The Chairman: It has been moved that clause 6 be approved.

Any objections?

There appear to be no objections.

Agreed.

[Motion carried: Clause 6 passed]

Hon. Kim N. Wilson: Mr. Chairman, the following amendments that I am presenting all will be amendments to the Companies Act 1981, by inserting . . .

[Inaudible interjections]

The Chairman: Read on.

The Clerk: This is wholly something else altogether.

[Pause]

The Chairman: Go ahead, Minister. I am trying to follow you. Just bear with us for a second.

[Pause]

Hon. Kim N. Wilson: We are inserting a new clause 7 to the Bill.

The Chairman: To the Bill? Okay.

Hon. Kim N. Wilson: Correct. In fact, there will be several clauses that we are inserting.

The Chairman: Okay.

Hon. Kim N. Wilson: Should I proceed?

The Chairman: Go right ahead.

NEW CLAUSE 7

Hon. Kim N. Wilson: Thank you, Mr. Chairman, very much, for your indulgence.

All right. Clause 7. So, "The Companies Act 1981 is amended by inserting, after section 261, the following—Striking off an application by a company" Section "261A(1) The Registrar may, on the application of a company, strike the company's name off of the register on such grounds and subject to such conditions as may be prescribed.

"(2) An application under subsection (1) shall be made on the company's behalf by all of its directors or by a majority of them

"(3) Upon the receipt of the application, the Registrar shall, if satisfied that the grounds and conditions referred to in subsection (1) have been satisfied, send to the company and its directors, secretaries, and members a letter informing them of the application and stating that if an answer showing cause to the contrary (in the form and manner referred to in section 261C is not received within thirty calendar days after the date thereof a notice, details of which are set out in subsection (4), will be published in the Official Gazette with a view to . . ."

The Chairman: Minister, bear with me for a second.

Hon. Kim N. Wilson: Sure.

The Chairman: You are going to move 261A to . . . or are you doing . . .

Hon. Kim N. Wilson: I would like, with your leave, to just do all of 261A.

The Chairman: Okay. And then?

Hon. Kim N. Wilson: Amendment.

The Chairman: Yes. Continue.

Hon. Kim N. Wilson: Thank you, Mr. Chairman.

"(4) The Registrar may not strike a company's name off of the register under this section until after the expiration of sixty days after the publication by the Registrar in the Official Gazette of a notice—(a) stating that the Registrar intends to exercise the power under this section in relation to the company; and (b) inviting any person to show cause as to why that should not be done within thirty calendar days after the date of the initial notice referenced in subsection (3).

"(5) If no person shows cause or sufficient cause within the period referred to in subsection (4)(b) as to why the name of the company should not be struck off the register, the Registrar shall strike the name of the company off the register and publish a notice in the Official Gazette of the company's name having been struck off.

"(6) On the publication of the notice in the Official Gazette under subsection (5), the company is dissolved, provided that—(a) the liability, if any, of every officer and member of the company shall continue and may be enforced as if the company had not been dissolved; (b) nothing in this section shall affect the continuity of the requirement imposed on such director or officer of the company by subsection (7) to keep such records for the period referred to in that subsection; and (c) nothing in this subsection shall affect the power of the Court to wind up a company the name of which has been struck off of the register.

"(7) Every person who was a director or an officer of a company at the date upon which the company is struck off of the register pursuant to this section shall ensure that—(a) the records of account of the company referred to in section 83 that are in existence on that date are kept for five years from the end of the period to which such records of account relate; and (b) where applicable, any record specified in regulation 15 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 is kept for the period specified in that regulation. "(8) A person who fails to comply with subsection (7) shall be liable to a default fine of five hundred dollars.

"(9) The Registrar shall ensure that such particulars of the company and of the application referred to in subsection (1), as he may determine, are sent to (a) the Office of the Tax Commissioner; (b) the Department of Social Insurance; and (c) the Bermuda Monetary Authority, provided that such company is an entity regulated by the Bermuda Monetary Authority.

"(10) The Registrar may, for the purposes of this section, send notices to the company by ordinary post or in such other agreed upon manner."

Thank you, Mr. Chairman.

The Chairman: Before you stand, Deputy Opposition Leader.

Minister, you are lifting this right from the Companies Act? Are there any changes?

Hon. Kim N. Wilson: No. This is a new section.

The Chairman: Okay. I just wanted to be clear.

Honourable Member Scott, continue.

Ms. Leah K. Scott: Thank you, Mr. Chairman.

So, this section 261A is a new section. But generally, companies have been allowed to be struck off. You could write a letter to the Registrar, say that there is no need for the company anymore, ensure that the company has not traded and that it does not have any outstanding creditors, because if there are any debts that are owed and the company is struck off, the creditor can make an application to have the

company restored back to the Register and then try to recover the debt.

So, I am assuming that now they are just trying to formalise the process and that this is a requirement by FATF to formalise the process?

So, my question is, proposed section 261A(6)(a) says that, once a company is dissolved, the officers and members essentially have an evergreen requirement to be responsible for the liabilities of the company.

Is that the intention, to have a forever liability responsibility as a member of a company?

The Chairman: That is the question?

Ms. Leah K. Scott: That is my question. Is there an evergreen . . . Because, basically it says, "the liability, if any, of every officer and member of the company shall continue and may be enforced as if the company had not been dissolved."

The other question I have, and just maybe I am not understanding the terminology, is, on the publication and the notice of the *Gazette*, the company is dissolved. But then it says that there is "nothing in this subsection [that] shall affect the power of the court to wind up a company . . ." So if a company is dissolved, it does not exist anymore. So is the company going to be restored to then be dissolved? Is that what the intent . . . I am not sure what the intention of this clause is. It seems like it is a bit redundant.

[New] clause 7, [proposed to amend section] 261[A](9)(c), notification has to be sent to the BMA provided that such company is an entity regulated by the BMA. So, I am not sure what you mean by "regulated by the Bermuda Monetary Authority." I am not sure what you are trying to . . . I do not know if you are talking about companies that may be continued in Bermuda, or permanent companies that operate here and they are not eligible to be struck off even if they have a permit to operate? I am not sure by what you mean by "an entity regulated by the Bermuda Monetary Authority."

[Inaudible interjection]

Ms. Leah K. Scott: Okay. And then, finally, proposed section 261A(10), "The Registrar may, for the purposes of this section, send notices to the company by ordinary post or in such other agreed upon manner." And who is the agreement with in terms of how they are going to dispatch notices?

And that is all for section 261A. Thank you, Mr. Chairman.

The Chairman: Any further speakers?

Minister.

Hon. Kim N. Wilson: Thank you, Mr. Chairman.

Just starting from the last question first. The agreement would be between the Registrar and the company to which the notice is to be served. So, they would make an agreement between the two. If it was not going to be ordinary post, it could be by collection, it could be by email, whatever. The agreement is between the party, the company, and the Registrar.

Mr. Chairman, whilst I wait for some technical support I can also again remind Members that the purpose of these amendments with respect to the Companies Act is, again, in keeping with our FATF requirement. The consultants who have been here have identified some shortfalls in our Companies Act, and this is to ensure that we have a robust AML/ATF framework.

[Pause]

The Chairman: We want to yield.

Hon. Kim N. Wilson: Oh, thank you.

The Chairman: The Chair recognises the Honourable Grant Gibbons.

Hon. Dr. E. Grant Gibbons: Thank you, Mr. Chairman.

Mr. Chairman, I refer back to your comments earlier this evening. I think we are being remarkably indulgent here. In 25 years, I have never seen insertions for Companies Act amendments, or something like that, put in where there is no reference to the Companies Act actually in the Bill itself. So, I think we understand what we are doing here. But I think we need it put on record the fact that this is a remarkably indulgent House at the moment. Thank you.

The Chairman: Thank you.

[Inaudible interjections]

The Chairman: Well, we are trying to keep in conformance with international regulations. And I understand. The Minister is still . . .

[Pause]

Mr. N. H. Cole Simons: Go over section 261B(1) again.

The Chairman: You cannot. That is finished.

[Pause]

The Chairman: Minister, we cannot wait much longer on this.

Hon. Kim N. Wilson: Mr. Chairman, and I am so grateful for the indulgence of this House. As the Minister of Health, you would know what my position is.

The Chairman: Yes.

Hon. Kim N. Wilson: And I am attempting to do the best that I can to carry this Bill. I know amendments . . . this is an ever-moving process. Unfortunately, it is moving at the speed of light. And if we do not keep up with the amendments, then Bermuda will suffer. So, I do appreciate both yourself and the House's indulgence.

With respect to section 6, the CA [Companies Act] section 261(5)(a) and (b), which is currently not codified, and this is what is being used for voluntary strike-offs.

The Chairman: Honourable Member Scott.

Ms. Leah K. Scott: Mr. Chairman, that is not an acceptable answer. But I just wonder if it is possible . . . Can they give me the answers at another time, or provide them later or—

The Chairman: If that is acceptable to you.

[Pause]

Ms. Leah K. Scott: Well, I am not satisfied with the answer.

The Chairman: Minister.

[Inaudible interjections]

The Chairman: Yes. You can move.

Hon. Kim N. Wilson: Mr. Chairman, I would like to move [new] clause 7, as amended . . . of the Companies Act . . . be amended by inserting the section 261, which I have just read out.

The Chairman: It has been moved that clause 7, regarding section 261, be approved.

Any objection?

There would appear to be none.

Agreed to.

The Chairman: Continue on, Minister.

Hon. Kim N. Wilson: Thank you, Mr. Chairman.

I would like to go on to clause 8.

The Chairman: Give me a location.

Hon. Kim N. Wilson: I am sorry. Section 261B. I apologise. Section 2 . . . May I proceed, Mr. Chairman?

The Chairman: Of course. You are talking about clause 7, section 261B?

Hon. Kim N. Wilson: Section 261B; that is correct. Thank you, Mr. Chairman.

The Clerk: So, we are still on clause 7?

The Chairman: Yes.

Hon. Kim N. Wilson: We are still on clause 7. I did, with the Chair's leave, do it in chunk-sizes. So we are just doing one section at a time. So, with your leave, Mr. Chairman, I would like to proceed with section 261B.

The Chairman: Continue.

Hon. Kim N. Wilson: Thank you, Mr. Chairman.

"Withdrawal of application

"261B(1) The applicant or applicants may, by written notice to the Registrar, withdraw an application to strike a company's name off of the register under section 261A at any time before the name of the company has been struck off of the register.

"(2) Upon receipt of the notice referred to in subsection (1), the Registrar shall send to the company by ordinary post a notice that the application to strike the company's name off of the register has been withdrawn.

"(3) Upon receipt of the notice referred to in subsection (1), the Registrar may publish a notice on the Registrar's website that the application to strike the company's name off of the register has been withdrawn.

The Chairman: Okay.

Any further speakers?

The Chair recognises the Honourable Member Leah Scott.

Ms. Leah K. Scott: Actually, this is one of the few clauses that I actually do agree with. I do not have any problem with it.

[Laughter]

Ms. Leah K. Scott: I would also like to know whether there is going to be a cost associated with making an application to have a company struck off, or with having an application to have one withdrawn.

The Chairman: Any further speakers?

Minister, you have the floor.

[Inaudible interjection]

The Chairman: Yes. Next time, turn on your microphone, please.

[Inaudible interjection]

Ms. Leah K. Scott: I am happy with the clauses, but I would like to know whether or not there is a cost associated with an application to either have the company struck off or to make an application to have the application to have the company struck off withdrawn.

Hon. Kim N. Wilson: Mr. Chairman, I will endeavour to get that answer for that Honourable Member.

But as there is no objection to the clause, I would like to move that that clause be as it is amended.

The Chairman: So, do you want to move clause 7, section 261B?

Hon. Kim N. Wilson: That is correct. Thank you, Mr. Chairman.

The Chairman: It has been moved that clause 7, subsection 261B, be approved.

Any objections?

There are no objections.

Approved.

Continue.

Hon. Kim N. Wilson: Mr. Chairman, I would like to proceed with clause 7 amending section 261C.

The Chairman: Yes, continue.

Hon. Kim N. Wilson: Mr. Chairman, "Objections to strikeoff

"261C (1) Where a notice is published by the Registrar under section 261A(4) of the Registrar's intention to strike the company's name off of the register, any person may deliver, not later than the date specified in section 261A(4)(b), in objection to the striking off of the name of the company from the register on the ground that there is reasonable cause why the name of the company should not be struck off, including that the company does not satisfy any of the prescribed grounds for striking off referred to in section 261A(1).

"(2) Upon receipt of a notice of objection, within the time referred to in subsection (1), the Register shall—(a) where applicable, give the applicant or applicants for striking the name of the company off of the register notice of the objection; (b) in deciding whether to allow the objection, take into account; and (c) such considerations as may be prescribed."

By inserting clause 8 of the Bill, thereby amending the . . .

Ms. Leah K. Scott: This is a new thing.

Hon. Kim N. Wilson: Sorry, Mr. Chairman. That concludes it.

The Chairman: Yes. To (c) is good.

And the Chair recognises the Honourable Member Pat Gordon-Pamplin.

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

Mr. Chairman, I saw that the Minister actually had struggled a bit with the subsections of this item 2. The purpose for this is that we have three subsections under section 261C(2). We have an (a), we have a (b), and we have a (c). And (b) and (c) do not make sense. I think (c) needs to be part of (b). And (c) needs to be deleted. Because what this is saying is that (a) is, where applicable, to give the applicant or applicants for striking the name of the company off of the register notice of the objection; and (b) in deciding whether to allow the objection, take into account such considerations as may be prescribed. So I think (c) does not belong there. I think (b) and (c) need to be merged, or to make . . . Sorry?

[Inaudible interjections]

Mrs. Patricia J. Gordon-Pamplin: Right. So I think, just to make sure that we have the correct wording of this clause.

[Inaudible interjections]

The Chairman: One second, one second.

Go ahead, Ms. Scott.

Ms. Leah K. Scott: Mr. Chairman, could I just say I appreciate the urgency of this. But again, I would just like to go on record as saying that I appreciate the indulgence of the House.

But this is not an acceptable manner to produce a piece of legislation, particularly if we are talking about how important it is for us to pass this CFATF mutual assistance.

And I just think that we will probably have to come back and make some further amendments. As I said, you know, measure twice, cut once. And I appreciate the urgency, but this is not a good way to do this. Thank you.

The Chairman: The Chair recognises the Premier, the Honourable David Burt.

Hon. E. David Burt: Thank you very much, Mr. Chairman.

Mr. Chairman, I understand the concerns of Members opposite. And as I have discussed with the leadership on that side, it is unfortunate that we are in this place. There is a lot of work that has been done. There have been a lot of long hours that have been worked by the NAMLC [National Anti-Money Laundering Committee] team in order to get this.

We understand that the deadline is next Friday. And so, if we do not do this this evening, and we are having the Senate work through this measure extraordinarily quickly, then we are going to have to come back next week—Monday. So if Members want to come back on Monday, then that is perfectly fine. I am in no way, shape or form . . . I appreciate the indulgence of Members. We are going to work through this, and I appreciate that, especially with the Minister, who is injured, is carrying this.

So, if Members want to rise, we can come back on Monday, or we can continue to proceed.

The Chairman: Members, you have heard the Premier.

[Inaudible interjections]

Ms. Leah K. Scott: Mr. Chairman, I would like to thank the Premier for his comments and for his indulgence. We are prepared to work through this. But, you know, it is just really important that we get it right. And I know that you have been a part of it and that you have been working hard. And I know how hard everybody else has been working. I am in the industry, so I understand it.

But we just have to get it right. So, thank you. So we will just work through it.

Hon. E. David Burt: Mr. Chairman, I thank the Deputy Leader of the Opposition for her support on this matter to move forward. It is important that we get it right, and this is not the normal way of our doing work. We are going to have to be a little bit more scrutinising. There are the little things. But, as Members will understand, the team has been working around the clock trying to make sure that we get these done. So, I appreciate the indulgence of the House.

The Speaker: Minister, do you want to . . .

Hon. Kim N. Wilson: Mr. Chairman, I would like to move clause 7, as amended.

The Chairman: Clause 7, amendment to section 261C?

Hon. Kim N. Wilson: Yes, thank you.

The Chairman: It has been moved that clause 7—

Hon. Kim N. Wilson: Can I just add, Mr. Chairman?

Ms. Leah K. Scott: I have not had any input to the . . .

The Chairman: Oh, I am sorry. I thought you had. My apologies.

Ms. Leah K. Scott: No problem.

The Chairman: Continue.

Ms. Leah K. Scott: Thank you, Mr. Chairman.

On page 7, under section 261C(1), it refers to an objection to the strikeoff. And the company has to meet prescribed grounds. And then it refers back to section 261A(1). But all 261A(1) is that the Registrar may, on the application of a company, strike the company's name off of the register on such grounds and subject to such conditions as may be prescribed.

But I do not know what the prescribed conditions are. And there do not appear to be any. So I would like to know what the prescribed conditions are. There is nothing that indicates what they are. Thank you, Mr. Chairman.

The Chairman: And the Chair recognises the Honourable Pat Gordon-Pamplin.

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

Mr. Chairman, I just wanted to make sure that the Minister agreed that, [in section 261C(2)] (c) needs to come out and that the content of (c) be merged with (b) in order to make . . . This is on page 7 under section 261C(2), where I mentioned earlier that we have a subsection (a), (b), and (c). And (b) is sort of a hanging sentence.

Now, moving onto page 8. So, section 261C(2)(b), the sentence says "into," and then 261C(2)(c), I think that that should only be one sentence. And I just wondered if the Minister would agree that that is one sentence, one thought process, and that the content of (c) should be merged with the content of (b), and the letter (c) then be eliminated.

Hon. Kim N. Wilson: Mr. Chairman, I think that can be dealt with. I thank the Honourable Member for pointing that out, and I think that can be dealt with under the slip rule. It is absolutely correct. And I thank you for your observation.

The Chairman: All right.

Any further . . . Minister, do you want to move?

Hon. Kim N. Wilson: Yes. With respect to the question that was asked concerning the manner in which the conditions that will be prescribed, they will be done by guidance notes.

Ms. Leah K. Scott: Okay.

Hon. Kim N. Wilson: With that, Mr. Chairman, I would like to move subsections . . .

The Chairman: Clause 7.

Hon. Kim N. Wilson: Yes. Clause 7, in particular the amendment to section 261C.

The Chairman: It has been moved that clause 7, amendment to section 261C, be approved.

Any objections?

There appear to be none; as amended, agreed.

[Motion carried: New clause 7 passed.]

Hon. Kim N. Wilson: Thank you, Mr. Chairman.

I would like to proceed with clause 8, which is . . . May I proceed, Mr. Chairman?

The Chairman: Yes, you may.

NEW CLAUSE 8

Hon. Kim N. Wilson: Okay. So I will do all of clause 8. This amends the Proceeds of Crime Act 1997.

Mr. Chairman, "The Proceeds of Crime Act 1997 is amended in section 42A(1), by repealing and replacing section [paragraph] (g) with the following—

"(g) carries on trust business within the meaning of section 9(3) of the Trusts (Regulation of Trust Business) Act 2001, except for any person which is exempted by or under paragraph 3 of the Trusts (Regulation of Trust Business) Exemption Order 2002 provided that—

"(i) such exempted person utilises the services of a corporate service provider business, licensed by the Bermuda Monetary Authority, within the meaning of section 2(1) of the Corporate Service Provider Business Act 2012; or

"(ii) such exempted person has in its corporate structure or engages the services of a trust business, licensed by the Bermuda Monetary Authority, within the meaning given in section 9(3) of the Trusts (Regulation of Trust Business) Act 2001;"

Thank you, Mr. Chairman.

The Chairman: Any further speakers?

Ms. Leah K. Scott: Thank you, Mr. Chairman.

So, this section is aimed at private trust companies. And I am just asking . . . I need to ask a question on section 42A(1)(g)(ii).

So, "such exempted person has in its corporate structure or engages the services of a trust business, licensed by the Bermuda Monetary Authority, within the meaning given in section 9(3) of the Trusts (Regulation of Trust Business) Act 2001." So, it does not seem like it is grammatically correct, but I may not be reading it correctly.

So, if I read it, such PTCs . . . Is it intended that a PTC has to have in its corporate structure a trust business or engage the service of a trust business?

Hon. Kim N. Wilson: Yes, okay. Mr. Chairman?

The Chairman: Go ahead.

Hon. Kim N. Wilson: Thank you.

So, what this provision is saying, Mr. Chairman, is that we are repealing section 42A(1)(g) and replacing it with the following . . . so, if you are a PTC and you provide (i) such exempted person utilises the services of a corporate service provider business, licensed by the Bermuda Monetary Authority . . .; or (ii) such exempted person . . . the paragraph (ii). If you are a PTC and you provide both of those, then there is no need for you to register as a non-licensed person (NLP). So, an NLP only applies if you are a PTC and you are not doing any of those.

So, if you are a PTC and you are doing what is outlined in section 42A(1)(g), paragraph (i) and you are doing what is outlined in paragraph (ii), then there is no need for you to register as a non-licensed person.

The Chairman: Okay.

The Chair recognises the Honourable Member Scott, Leah Scott.

Ms. Leah K. Scott: I do not get that same reading from this. Unless I am reading it wrong.

[Pause]

Hon. Kim N. Wilson: Perhaps I could be of assistance?

The Chairman: Continue. Yes.

Hon. Kim N. Wilson: Okay.

Again, we are repealing and replacing. So if you are a PTC, and you are doing what is outlined in paragraph (i) or you are doing what is outlined in paragraph (ii) . . . so you are providing corporate structure. You are engaged in services of a trust business, et cetera. If you are doing any of that as a PTC, then there is no need for you to register as a non-licensed person.

The Chairman: Right.

Hon. Kim N. Wilson: Because you are already deemed to be within the AML framework. And, to my colleague, my learned friend the Deputy Opposition Leader, there are probably approximately 14 entities that specifically this provision would relate to, of PTCs.

The Chairman: Any further speakers?

Ms. Leah K. Scott: Sorry, Mr. Chairman.

So, section 42A(1) of the Proceeds of Crime Act says, "In this part—'AML/ATF regulated financial institution' means a person who— . . ." The current section (g) reads, "carries on trust business within the

meaning of section 9(3) of the Trusts (Regulation of Trust Business) Act 2001 and is not otherwise exempted by or under paragraph 3 of the Trusts (Regulation of Trust Business) Exemption Order 2002 . . ."

My understanding is that this section [42A(1)](g) is going to be inserted here.

Hon. Kim N. Wilson: Yes.

Ms. Leah K. Scott: Right? But there is nothing in here that says that you do not have to be licensed.

[Inaudible interjections]

Ms. Leah K. Scott: So . . . Sorry. Just bear with me.

So, my question in section [42A(1)(g)](ii) is, does the exempted person have to have, in its corporate structure, trust business, to be exempted? That is how I am reading the paragraph, unless I am interpreting it the wrong way.

Hon. Kim N. Wilson: Mr. Chairman. And I am relying on the drafter, because it is a question that we raised previously. And the drafter has indicated that when you are repealing and replacing you have to effectively ignore the previous paragraph (g) [of section 42A(1)] that was in the Trust Act. Because we are replacing it with this one.

And, as what was just read, the words "except for any person which is exempted" are now applying. So we have to act as if the former section [42A(1), paragraph] (g), is gone. What does it say in your work, *Old things are past?*

[Laughter]

An Hon. Member: Behold new things!

Hon. Kim N. Wilson: *Behold new things!* This is new. So the old section 42A(1)(g) is gone. We are repealing it and replacing it with what is here. And those words "except for any person," there is the proviso. There is the exception that is contained in this particular provision.

Ms. Leah K. Scott: Mr. Chairman, I agree with the Minister. But my question remains the same. Does that PTC have to have within its structure a trust business or engage the services of a trust business?

I understand the old (g) is gone away and the new (g) has come in. But my question is: Does the new paragraph (g) have to have a trust business within its structure?

[Inaudible interjections]

Hon. Kim N. Wilson: No. Thank you, no.

The Chairman: Thank you.

Any further speakers?

The answer was no, Honourable Member. If you are not satisfied, then I think you should get up and express . . .

Minister.

[Inaudible interjections]

Hon. Kim N. Wilson: Yes. Thank you, Mr. Chairman.

I would like to move clause 8, as amended.

The Chairman: It has been moved that clause 8 be approved.

Any objections?

There appear to be none; approved.

[Motion carried: New clause 8 passed.]

Hon. Kim N. Wilson: This is never-ending.

[Laughter]

Ms. Leah K. Scott: That is how we feel.

[Laughter]

Hon. Kim N. Wilson: Mr. Chairman, may I proceed with—

The Chairman: Yes. Continue.

NEW CLAUSE 9

Hon. Kim N. Wilson: Mr. Chairman, may I proceed with clause 9? I would like to move clause 9 of the Bill thereby amending the Companies Act (we are back to the Companies Act now) as follows:

"The Companies Act 1981 is amended—

(a) in section 13(2) by—

(i) repealing the word 'and' at the end of paragraph (e);

(ii) deleting and substituting the full-stop at the end of paragraph (f) with a semi-colon; and

(iii) inserting after paragraph (f), the following—

'(g) the filing of information, referred to in paragraphs (a), (e) and (f), in a prescribed form.';

(b) in section 13 by inserting after subsection (2), the following— '(2A) Information obtained for the purposes of subsection (2)(g) shall not be made available to the public.';

(c) in section 62 by inserting after subsection (1), the following— '(1A) For the purposes of subsection (1), the address of the registered office of a company shall include—

(a) in the case of a corporate service provider, the name of the corporate service provider; and

(b) the building name and floor number, where applicable.'"

Thank you, Mr. Chairman.

The Chairman: The Chair recognises the Honourable Leah Scott. I'm sorry, this is . . . anyhow—

Ms. Leah K. Scott: I thank the Chair for the recognition.

Mr. Chairman, section 9(a)(iii)(g), on page 10, "the filing of information, referred to in paragraphs (a), (e) and (f), in a prescribed form." . . . those documents are the transfer of shares in a deceased's estate, the duties of the secretary, and what the quorum is for members.

So I would like to know what benefit it is of filing these documents. I know that they want to have . . . the intention was to try to have bye-laws filed, but bye-laws actually contain a lot of information, probably the internal operation of a company and there are things in there that should not be made for public consumption.

So my question is, what benefit is having a copy of the transfer of shares in a deceased's estate? Duties of the secretary are already detailed in the Companies Act so I do not know why we would have to submit that. Our duty would not contravene the Companies Act, I don't think. And the quorum for members . . . what is the benefit of gathering this information?

Then on page 10 again, (9)(b)(2A), "Information obtained for the purposes of subsection (2)(g) shall not be made available to the public." Now, we have greater comfort with confidentiality with the BMA because they have been keeping information on beneficial owners for over 70 years. They have a system, they have a process, and we are satisfied, generally, with their confidentiality process.

The Registrar of Companies operates on the basis that most of their documents are publically available. So what systems are they going to have in place to make us satisfied that there is going to be the level of security that is needed for the type of information that we are now being required to provide them with? Thank you, Mr. Chairman.

The Chairman: Minister?

Hon. Kim N. Wilson: Thank you, Mr. Chairman.

With respect to the question concerning the bye-laws, I think I stated previously that consultation has taken place heavily with respect to this. However, it is something that was raised concerning this. And I can say that as a result of these amendments the information that is going to be requested is only information regarding the shares transfer upon the death of the shareholder. So, notwithstanding what many of the other by-laws may contain, the only information that is going to be required to be provided by the companies, as set out in section 13 under prescribed form is as follows: "13(2)(a) the transfer of shares and the registration of estate representatives of deceased shareholders; . . . (e) the duties of the secretary to the company; and (f) the number of members required to constitute a quorum at any general meeting of the members of the company."

All the other provisions that are outlined in the Companies Act that are required to be in by-laws are not doing what is asked for in this particular amendment; only those three isolated matters that I have just spoken about.

In addition, again, FATF is requiring under their Recommendation 24 that countries maintain a central public registry of the legal persons established within that jurisdiction. And FATF is also requiring that the basic regulating powers of such legal persons should also be held in the registry. So, memos and articles of association are considered by FATF to be the basic regulating powers of that legal person. And Bermuda does not have any articles of association, but by-laws, which perform that same function. Again, Mr. Chairman, notwithstanding some of the concerns that have been raised in industry, this is all about our international obligations, it is about making sure that Bermuda knows the nature of the clients we are doing business with, we know the nature of the persons and the sources of their funds that are coming.

Anonymous instruments have been viewed by FATF as being very suspect and causing problems in jurisdictions with respect to their ability to properly and adequately litigate against money laundering and terrorist financing. So that is what the provisions we are seeking to do in these amendments will address.

The Chairman: The Chair recognised the Premier.

Hon. E. David Burt: Thank you, very much, Mr. Chairman.

Mr. Chairman, there is another question that was asked by the Deputy Leader of the Opposition regarding security of the system for the information. I am happy to inform the Honourable Member it should be gazetted shortly that the Registrar of Companies has procured a new systems provider. That system we will be putting in has full security requirements to international company that provide these types of services to many different registrars of companies around the world. It is one of the things that we without question have a challenge with. The website and systems of the Registrar of Companies have not been as up to date as they need to be. They are running on old systems, but those systems are slated to be replaced. The contract has been executed and approved by Cabinet and we will proceed on that level.

So, just to echo what the Minister who has been piloting this Bill through in a very fine fashion, there was a lot of back and forth on this; an incredible amount of back and forth in industry. I was involved in multiple meetings on this particular matter. We figure we struck the right balance insofar as we are not going to release this information but we can have this information on file should it be requested.

So it was a lot of back and forth in order to arrive at this particular middle ground. We are always conscious of making sure we do not put Bermuda too much further, I guess out of step, with our competitors but make sure that we maintain our standards. And I think we have done that in this balance.

The Chairman: Thank you, Honourable Premier.

Ms. Leah K. Scott: Thank you, Mr. Premier. I appreciate that.

Mr. Chairman, I have one more question. On page 10, [clause 9 (c)] (1A) about the Form 13 that has to be filed, and the Form 13 sets out where the registered office is. And it says that it is now being amended to include the name of the corporate service provider. What about the little mom-and-pop companies that do not engage a corporate service provider [CSP]?

So, all the little local companies that can just about get by and cannot pay a lawyer $4,000 a year to administer their companies, and they do all of their own filings, where do they fall in this if they do not file this form 13 with the requisite information, or they do not have a corporate service provider administering their books?

The Chairman: Minister?

Hon. Kim N. Wilson: Mr. Chairman, with respect to a company that does not have a CSP, then this would not apply. It would only apply to companies that are part of a CSP which is used because multiple CSPs have the same building and street address. So they are trying to be able to designate and distinguish where the company is. So if a company does not have a CSP then it does not apply.

The Chairman: Any further speakers?

Minister, do you want to move clause 9?

Hon. Kim N. Wilson: Mr. Chairman, I would like to move clause 9 as amended.

The Chairman: It has been moved that clause 9 be approved.

Any objection?

No objection.

Agreed to.

[Motion carried: New clause 9 passed.]

Hon. Kim N. Wilson: Mr. Chairman, clause 10.

The Chairman: Continue.

Hon. Kim N. Wilson: I would like to move clause 10 as amended.

It is by inserting clause 13 into the Bill thereby revoking and replacing form 13 of the Companies Rules Forms 1982 with the following. (And then the form is attached.)

The Chairman: It should be on page 11.

Hon. Kim N. Wilson: Oh, I am jumping ahead. I'm sorry.

The Chairman: I understand. You're tired.

Hon. Kim N. Wilson: I was hoping nobody would notice.

[Laughter]

Hon. Kim N. Wilson: Where am I? Am I on clause 10?

The Chairman: Ten.

NEW CLAUSE 10

Hon. Kim N. Wilson: Yes, Mr. Chairman, I would like to move clause 10 by amending the Anti-Terrorism (Financial and Other Measures) Act 2004 as follows.

The Chairman: Continue.

Hon. Kim N. Wilson: Thank you.

Clause 10. "The Anti-Terrorism (Financial and Other Measures) Act 2004 is amended in section 2(1) by repealing and replacing paragraph (g) with the following— '(g) carries on trust business within the meaning of section 9(3) of the Trusts (Regulation of Trust Business) Act 2001 except for any person which is exempted by or under paragraph 3 of the Trusts (Regulation of Trust Business) Exemption Order 2002 provided that —

"(i) such exempted person utilises the services of a corporate service provider business, licensed by the Bermuda Monetary Authority, within the meaning of section 2(1) of the Corporate Service Provider Business Act 2012; or

"(ii) such exempted person has in its corporate structure or engages the services of a trust business, licensed by the Bermuda Monetary Authority, within the meaning given in section 9(3) of the Trusts (Regulation of Trust Business) Act 2001."

The Chairman: Any further speakers?

The Chair recognises Ms. Scott.

Ms. Leah K. Scott: Mr. Chairman, this amendment and the two subsequent amendments are all going to be the same. I agree; she can roll on.

The Chairman: Okay.

Minister, do you want to move that?

Hon. Kim N. Wilson: I am so obliged to the Opposition's Deputy [Leader].

I would like to move clause 7 as amended—

The Chairman: No, this is clause 10.

Hon. Kim N. Wilson: Sorry, clause 10, as amended.

The Chairman: It has been moved that clause 10 as amended by approved.

Any objections?

No objections.

Approved.

[Motion carried: New clause 10 passed.]

Hon. Kim N. Wilson: Thank you, Mr. Chairman.

I would like to move the remaining clauses, which are clauses 11, 12 and 13.

Clause 8, sorry, clause 12 by inserting—

An Hon. Member: Clause 11.

Hon. Kim N. Wilson: Clause 11 (excuse me), so it's 11, 12, and 13 I would like to move.

The Chairman: Continue.

NEW CLAUSES 11, 12, AND 13

Hon. Kim N. Wilson: Thank you.

Clause 11 amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, in section 2(1) by repealing and replacing paragraph (g), with the following "carries on trust business within the meaning of section 9(3) of the Trusts (Regulation of Trust Business) Act 2001, except for any person which is exempted by or under paragraph 3 of the Trusts (Regulation of Trust Business) Exemption Order 2002 provided that: (i) such exempted person utilises the services of a corporate service provider business, licensed by the Bermuda Monetary Authority, within the meaning of section 2(1) of the Corporate Service Provider Business Act 2012; or (ii) an exempted person that has within its corporate structure or engages the services of a trust business, licensed by the Bermuda Monetary Authority, within the meaning given in section 9(3) of the Trusts (Regulation of Trust Business) Act 2001.

Clause 12 amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008. The Act is amended in regulation 2(2) by revoking and replacing paragraph with the following: "(g) carries on trust business within the meaning of section 9(3) of the Trusts (Regulation of Trust Business) Act 2001, except for any person which is exempted by or under paragraph 3 of the Trusts (Regulation of Trust Business) Exemption Order 2002 provided that: (i) such exempted person utilises the services of a corporate service provider business, licensed by the Bermuda Monetary Authority, within the meaning of section 2(1) of the Corporate Service Provider Business Act 2012; or (ii) such exempted person that has within its corporate structure or engages the services of a trust business, licensed by the Bermuda Monetary Authority, within the meaning given in section 9(3) of the Trusts (Regulation of Trust Business) Act 2001.

Clause 13 is amended by seeking to revoke and replaces Form 13 of the Companies (Rules Forms) 1982, with the following Form, which is attached to the amendment.

The Chairman: Any further speakers?

Ms. Leah K. Scott: I just have one, Mr. Chairman, on page 14, "(g)(i) such exempted person" and then there is a (ii), but there is no wording there. So I think number (iii) needs to be moved up to number (ii); and then number (iii) is eliminated.

The Chairman: Okay.

Minister?

Hon. Kim N. Wilson: Thank you.

Mr. Chairman, I think I have moved all of the amendments to clauses 11, 12 and 13.

The Chairman: It has been moved that clauses 11, 12, and 13 be approved.

Any objections?

No objections.

Agreed to.

[Motion carried: New clauses 11, 12, and 13 passed.]

Hon. Kim N. Wilson: Mr. Chairman, I move that the preamble be approved.

The Chairman: It has been moved that the preamble be approved.

Any objections?

There appear to be none.

Agreed to.

Hon. Kim N. Wilson: Mr. Chairman, I move that the Bill, be reported to the House as amended.

The Chairman: It has been moved that the Bill be reported to the House as amended.

Are there any objections?
No.

[Motion carried: A Bill entitled the Proceeds of Crime (Miscellaneous) Bill 2018 was considered by a Committee of the whole House and passed as amended.]

Hon. Kim N. Wilson: Mr. Chairman, can I just crave your indulgence and thank you, Mr. Chairman, as well as my colleagues for their patience and their indulgence throughout this rather lengthy, yet important, legislative amendment.
Thank you.

The Chairman: We thank you also.

House resumed at 9:16 pm

[Hon. Dennis P. Lister, Jr. Speaker, in the Chair]

REPORT OF COMMITTEE

PROCEEDS OF CRIME (MISCELLANEOUS) BILL 2018

The Speaker: Good evening, Members.
Members, are there any objections to the Proceeds of Crime (Miscellaneous) Bill 2018 being reported to the House with amendments?
No objections?
So moved.
That now brings us to the end of the Orders for today. We go to our third readings.
Minister?

SUSPENSION OF STANDING ORDER 21

Hon. E. David Burt: Mr. Speaker, I move that Standing Order 21 be suspended to enable me to move that the Bill entitled the Customs Tariff Amendment Act 2018 be now read the third time by its title only.

The Speaker: Any objections?
No objections.
Continue, Minister.

[Motion carried: Standing Order 21 suspended.]

BILL

THIRD READING

CUSTOMS TARIFF AMENDMENT ACT 2018

Hon. E. David Burt: Mr. Speaker, I move that the Bill entitled the Customs Tariff Amendment Act 2018 be now read a third time by its title only and passed.

The Speaker: Any objections?
No objections.
It is now passed.

[Motion carried: The Customs Tariff Amendment Act 2018 was read a third time and passed.]

The Speaker: Continue on with the other.

SUSPENSION OF STANDING ORDER 21

Hon. E. David Burt: Mr. Speaker, I will do a Bill so the Honourable Minister does not have to stand again.
I move that Standing Order 21 be suspended to enable me to move that the Bill entitled the Proceeds of Crime (Miscellaneous) Act 2018 be read the third time by its title only.

The Speaker: Any objections?
No objections.
Continue, Minister.

[Motion carried: Standing Order 21 suspended.]

BILL

THIRD READING

PROCEEDS OF CRIME (MISCELLANEOUS) ACT 2018

Hon. E. David Burt: Mr. Speaker, I move that the Bill entitled the Proceeds of Crime (Miscellaneous) Act 2018 be read a third time by its title only and passed.

The Speaker: Any objections?
No objections.
It is now passed.

[Motion carried: The Proceeds of Crime (Miscellaneous) Act 2018 was read a third time and passed.]

The Speaker: Third reading?

SUSPENSION OF STANDING ORDER 21

Hon. Wayne L. Furbert: Thank you, Mr. Speaker, I move that Standing Order 21 be suspended to enable me to move that the Bill entitled the Payroll Tax Amendment Act 2018 be read the third time by its title only.

The Speaker: Any objections?
No objections.
Continue, Minister.

[Motion carried: Standing Order 21 suspended.]

BILL

THIRD READING

PAYROLL TAX AMENDMENT ACT 2018

Hon. Wayne L. Furbert: Payroll Tax Amendment Act 2018, I now move that it be passed.

The Speaker: Any objections?
No objections.
It is now passed.

[Motion carried: The Payroll Tax Amendment Act 2018 was read a third time and passed.]

The Chairman: Minister?

SUSPENSION OF STANDING ORDER 21

Hon. Jamahl S. Simmons: Thank you, Mr. Speaker. And good evening.

I move that Standing Order 21 be suspended to enable me to move that the Bill entitled Partnership, Exempted Partnerships and Limited Partnership (Beneficial Ownership) Act 2018 be read the third time by its title only.

The Speaker: Any objections?
No objections.
Continue, Minister.

[Motion carried: Standing Order 21 suspended.]

BILL

THIRD READING

PARTNERSHIP, EXEMPTED PARTNERSHIPS AND LIMITED PARTNERSHIP (BENEFICIAL OWNERSHIP) ACT 2018

Hon. Jamahl S. Simmons: Mr. Speaker, I move that the Bill entitled be read a third time by its title only and passed.

The Speaker: Any objections?
No objections.
It is now passed.

[Motion carried: The Partnership, Exempted Partnerships and Limited Partnership (Beneficial Ownership) Act 2018 was read a third time and passed.]

The Speaker: Minister Brown.

Hon. Walton Brown: Yes, Mr. Speaker.

The Speaker: Continue.

SUSPENSION OF STANDING ORDER 21

Hon. Walton Brown: I move that Standing Order 21 be suspended to enable me to move that the Bill entitled the Municipalities Amendment Act 2018 be now read the third time by its title only.

The Speaker: Read on.

[Motion carried: Standing Order 21 suspended.]

BILL

THIRD READING

MUNICIPALITIES AMENDMENT ACT 2018

Hon. Walton Brown: Mr. Speaker, I move that the Bill be now read a third time by its title only and passed.

The Speaker: No objections?
It is now passed.

[Motion carried: Municipalities Amendment Act 2018 was read a third time and passed.]

The Speaker: Are those all our third readings?

[Inaudible interjections]

The Speaker: They are all done?
Premier?

ADJOURNMENT

Hon. E. David Burt: Thank you, very much, Mr. Speaker.

Mr. Speaker, I have spoken to the Opposition Leader following my discussion with yourself, and I move that the House do now adjourn until Friday, April 13th.

The Speaker: Does any Member wish to speak to that?

Sounds like Members did not want to come back on the 13th. They don't want to go home for that long. Do you want to come back sooner?

The Premier has indicated that he and the Opposition Leader had a conversation this evening after he approached me about the reason why the House has to return earlier than what was first indicated, because, yes, the first indication was that we would come back in May. But because of some time-sensitive items, we will be coming back early in April. And the two leaders, the Opposition Leader and the Premier have had consultation over this and so far,

understanding of the matter. So the House will resume . . . after we close tonight we will resume on the 13th and—

[Inaudible interjection]

The Speaker: Friday, the 13th.

But it will only be a short sitting. Let me say that now. It will be a short segment to allow us to table some time-sensitive matters and they will be taken up not the following week, but the week after that. And then we will resume normal sittings after that. But I am sure the Premier will update his Cabinet and colleagues just like the Opposition [Leader] will update her Cabinet and colleagues. So, I just appreciate that the two of you are in agreement in regard to that.

Now, Minister Caines, I see you standing there. Were you getting ready to leave or you are trying to get my attention?

Hon. Wayne Caines: Trying to get the Charlie horse out of my legs.

The Speaker: I will let you stand for a while for about 20 minutes. Let's see if you can get your Charlie horse out then.

Hon. Wayne Caines: Thank you, sir.

The Speaker: You have your 20 minutes.

LAHEY CLINIC LAWSUIT DISMISSED BY US COURT

Hon. Wayne Caines: Thank you, Mr. Speaker.

Mr. Speaker, I heard the apology and the statement today by the former Attorney General. I was also forced to consider for a second time the decision dismissing Judge Talwani's decision, dismissing the claim against Lahey. In considering that, Mr. Speaker, I was forced to consider how things normally work.

You see, Mr. Speaker, we have a Solicitor General. He is the Government's chief legal advisor. The Solicitor General is responsible for providing representation in court for all civil matters. The Solicitor General is also the accounting officer for the Attorney General's Chambers. In other words, he is responsible for signing off on all expenditure.

The Speaker: Member, just let me give a little caution to all Members. On Monday, when we had the motion to adjourn, I think I cautioned everybody to try and keep it factual and not personal. And I am going to caution everybody to keep that same tone. I think Monday evening all Members rose to a level that we would like to see maintained.

Not to say that you slipped off at this time, Minister, but it is a good reminder to all Members at this point. Let's try to maintain where we were on Monday evening.

Hon. Wayne Caines: I am guided, Mr. Speaker.

Mr. Speaker, the Solicitor General is the Government's chief legal advisor. He also provides the Attorney General or the people of Bermuda representation on civil matters in court. The Solicitor General is the chief accounting officer signing off on expenditure. He is responsible for the allocation of resources. He is responsible for keeping and managing files. The Solicitor General is responsible for assigning Crown Counsel.

In our Attorney General's Chambers we have one junior crown counsel. Mr. Speaker, a junior crown counsel is a person between one and five years called to the Bar. We have six crown counsel . . . excuse me, there are six posts for crown counsel, but five crown counsel; one of the posts is empty.

A crown counsel is a crowned lawyer who is five years or more called to the Bar. There are two senior crown counsel spots, one deputy solicitor spot, and on solicitor spot.

Mr. Speaker, without going into too many specifics, I am highlighting that with reference to matters of Lahey there were some irregularities. For you see, everyone . . . the junior crown counsel, the crown counsel, the senior crown counsel, the deputy solicitor general, the solicitor general all swear to the Official Secrets Act.

The Official Secrets Act is a document which mandates that everything that comes in their charge is sacrosanct. So, to understand how this works for my time as a crown counsel, if a matter came, any document, it will be a mixed meeting with the senior team. So, the Solicitor General, the Deputy Solicitor General and the senior crown counsel. Whatever the case, or whatever the matter was, they were responsible for . . . and they were having documents that would set out the realistic prospect of success. That document, which contains the realistic prospect of success sets out the facts of the case, any anomaly, nuance, and it highlights potential irregularity. It highlights any potential exposure if there are damages, if the government is to be sued or stopped or stacked of cost. It outlines what the potential exposure is.

It outlines the general cost: *If we go for a month, it will cost this much money; if we go for a year, it will cost this much money.* Then, the Solicitor General has to find out how this affects the budget. This document again is a realistic chance for success that sets out key matrices. They must also consider if any matter is in the public interest.

Last, but not least, they have to consider which crown counsel, or junior crown, or senior crown, or deputy crown, or, if he, indeed himself, takes this matter, they would have to decide who will be assigned to this case, and why, the rationale for making a person or assigning a person to a case, or a reason

or rationale why a person cannot be assigned to the case.

In this matter, there was nothing wrong with the former Attorney General seeking advice or instructing outside counsel. The Attorney General felt this matter was so significant, so delicate, so pivotal to the country's national vital interest, that he bypassed and did not discuss this matter with five crown counsel—two senior crown counsel, one Deputy Solicitor General, and the Solicitor General. He bypassed all of this, as is his right.

Does he go to Bermuda's local QCs? He does not. Does he go to the leading litigator; does he go to Delroy Duncan? He does not. Does he seek the services of Narinder Hargun? He does not. Does he reach out to Jeffrey Elkinson, a leading litigator? He does not. Does he go to Saul Froomkin, another leading litigator? He does not. Does he reach out to Julianna Snelling? He does not. Does he reach out to Jan Woloniecki? He does not. Does he reach out to Mark Diel? He does not.

Does he take a barrister from one of the 71 law firms on Island? No. He hires a local consultant lawyer and, at the time of the signing of his contract, he had been called to the Bermuda Bar for three years. The lawyer at the time of the signing of the contract had never worked as a lawyer outside of a pupil barrister or an intern.

Now, if you think about it, this legal consultant would not qualify to handle matters in the Attorney General's Chambers if he was a junior crown counsel because he did not have the requisite five years' experience.

So let me get this straight. A Solicitor General, or our Solicitor General, a lawyer called to the Bar of Bermuda for 25 years, dealt with hundreds of matters locally, many of them sensitive, many that affect the government, many that have called into sacrosanct hallowed nation of litigation in Bermuda, dealt with significant sensitive matters, he was not used. This matter was not discussed with him.

Let's say he was compromised. Did he go to the Deputy Solicitor General, a lawyer called to the Bar in these beloved isles for 17 years; a lawyer trained in the United Kingdom, trained in NAMLC, advised on CFATF elements of our government . . . does he go to that lawyer, respected lawyer—the Deputy Solicitor General? He does not.

No. He uses a junior legal consultant.

See, it is normal for files to be given to instructing counsel. That is correct. It is normal in local trials that are instructing overseas counsel for files to be transported abroad for trial preparation. Let me be clear. The former Attorney General was well within his rights to allow these files to leave Bermuda to instruct overseas counsel. The irregularity is that no files were left in office. There was no list of documents left for any Attorney General or any other lawyers to consider. There were no files. There was no locked filing cabinet. There was no discreet filing system. There was no codified special password-protected filing system. There was no encrypted thumb drive when the Attorney General from the Progressive Labour Party wanted to know and get further information about the trial. She had to call the Cooley law firm in Boston.

As a matter of fact, she had to fly to Boston to meet with Cooley. And she had to rely on the good grace of Cooley to share the information with her. She had to rely on our clients to give her the documents from her own Government that she did not have access to in her own office. The Attorney General of the country!

Cooley estimated that there were over 2.5 million documents that were associated with this investigation.

Mr. Speaker, Cooley estimated that for this investigation there were 2.5 million documents that were associated with this investigation! When the Attorney General went to be advised about this matter she was told that if this matter was to go to a full hearing at the end of the hearing the cost would be estimated to be between $3 million and $4 million.

This matter on this occasion came to its conclusion in one day. So that means that one day and the pre-trial administration of this matter cost the taxpayer of Bermuda $1 million. That one day, Mr. Speaker, and the pre-trial administration cost the people of Bermuda $1 million.

Mr. Speaker, I am speaking about irregularities. The Proceeds of Crime Act 1997, and I seek your leave, Mr. Speaker, to read this particular section. Thank you, Mr. Speaker.

The Speaker: Yes.

Hon. Wayne Caines: "36A The enforcement authority may recover, in civil proceedings before the Supreme Court, property which is, or represents, property obtained through unlawful conduct."

The authority must first be designated via an order that may be a public authority. The irregularity, Mr. Speaker? The former Attorney General did not designate a public authority as the enforcement officer to recover its civil proceedings before the Supreme Court, property which is, or represents, property obtained through unlawful conduct.

However, the transitional provision which says, "Pursuant to section 26 of the Proceeds of Crime Act, subsection (2) of 2013 was engaged to provide the Minister to exercise his powers to perform the functions of an enforcement authority."

Section 40 of the Proceeds of Crime Act, Mr. Speaker, "40 (1) . . . the Supreme Court may, on an application by the . . . Attorney General in the case of a civil recovery investigation, order [any] materials . . . in [the] possession [of] a Government Department be produced . . ." where the information "(3)(b) has been submitted to" a public department "by a person [who

has] at any time held property which was realisable property."

If the correspondence is passed between the government officer . . . excuse me . . . what is the irregularity? There is no evidence to suggest that the abovementioned process was undertaken. In other words, there was no evidence to show that the Attorney General followed the procedure that was followed in law to obtain 2.5 million documents from GEHI, from the Department of Immigration, from our computer department called IDT, or any other department for any of these cases. The irregularity, Mr. Speaker? The documents were obtained from government departments without ensuring the proper procedures were followed, procedures which would provide for the necessary safeguards, parameters within and showing how those documents should be obtained.

Section 36.1R (3) of the Proceeds of Crime Act, provides for guidance to be produced by the Minister with regard to the disclosure of information to the enforcement authority. Such guidance, Mr. Speaker, must specify the information to be disclosed. And it must disclose the manner in which it is to be done and the "conditions subject to which it is to be disclosed."

The irregularity, Mr. Speaker? This guidance was not produced. It was not produced by the former Attorney General and the Minister of Legal Affairs acting as the enforcement authority. Therefore, the question arises how, and by what means, was this information provided. This question arises because it appears that the information was obtained by the enforcement authority to proceed with the Lahey case.

Mr. Speaker, with the irregularities that I have highlighted we have cause for great concern. We have policies and procedures that protect the proper administration of justice. Mr. Speaker, we oftentimes see the statue of justice. It is a lady with her eyes blindfolded, and scales in her hands. Her eyes are blindfolded so that she administers her duty without fear or favour, without malice or malignant action. The scales of justice in her hands, Mr. Speaker, represent how evidence should stand on its own, and they highlight the fact that the evidence must be balanced.

Mr. Speaker, I have looked at this case. I have read the judgment. I have heard the soliloquy of the former Attorney General and something that rings true is that there are some irregularities. There are some questions that need to be answered. Under whose authority was this action given? Under whose authority were those documents obtained from those government departments. And if that authority was done in the right way, well should we not see the requisite documentation that was mentioned in the earlier part of my speech? Should that not be presented?

We are not here for our own devices. We carry out the people's business for justice, to make sure that this Island is protected, to make sure that this Island is covered. And if we in the administration of justice thwart the rules, if we go about doing things without following the proper procedures, what does that say for the administration of justice in these beloved and hallowed halls?

Thank you, Mr. Speaker.

An Hon. Member: Hear, hear.

The Speaker: Thank you, Honourable Member.

Does any other Member wish to speak?

I recognise the Honourable Member from constituency 24. Honourable Member, Scott, you have the floor.

Mr. W. Lawrence Scott: Thank you, Mr. Speaker.

Listening to the Member earlier today got me thinking. Although it is history to myself, Mr. Speaker, I know that you lived it. What I am talking about is that in this country prior to 1998 the Attorney General was an independent body. The Attorney General's Chamber was independent of Government. It was the PLP and from my research it shows that it was Dame Lois Browne-Evans who, looking at other jurisdictions, and the issues that they were having in having an independent Attorney General, where the Attorney General would butt heads with the Government because they did not share the same vision for the country.

Therefore, Dame Lois said, *You know what? This is a new Government, this is a new day. We need to ensure that the vision that we as the PLP Government have for the country is able to be smoothly and efficiently enacted.* So, what Dame Lois Browne-Evans did, and what the PLP Government did was create the Ministry of Justice. In creating the Ministry of Justice, Dame Lois Browne-Evans became our first Minister of Justice. So that now means that in the creation of this Ministry the Attorney General's Chambers now became . . . or the Attorney General became a Member of Cabinet.

As a Member of Cabinet under the PLP's administration, the Attorney General's Chambers put out programmes such as what we are talking about now, anti-money laundering. You know, the current Attorney General's Chambers is working on other things to better and improve the quality of life for all Bermudians, because now the Attorney General basically carries out the will of Cabinet.

So now, the question is: If that is the role of an Attorney General, to carry out the will of Cabinet, would that not suggest that under a former administration with a former Attorney General, if the Bermuda Government went after Lahey and it was the Attorney General seemingly leading the way, would that not mean that the Attorney General is only carrying out the will of the then Government or the OBA Cabinet? Would it not be Cabinet that is instructing the former Attorney General to basically, seemingly, get information from a criminal investigation and then use it in a civil investigation . . . suit.

Hon. Dr. E. Grant Gibbons: Point of order, Mr. Speaker.

The Speaker: Member, we have a point of order here the Member from constituency 22.

POINT OF ORDER
[Misleading]

Hon. Dr. E. Grant Gibbons: Yes, thank you, Mr. Speaker.

Mr. Speaker, the Attorney General set out very clearly . . . the Honourable Member is misleading the House. The Attorney General set out very clearly today that nothing from a criminal matter was used in the civil suit.

The Speaker: Thank you.

Member?

Mr. W. Lawrence Scott: Okay, Mr. Speaker. Thank you.

But the thing is the one thing I did not hear, and one thing that is a fact, Mr. Speaker, because you want us to deal in facts, is that it was under the former Attorney General and the OBA Cabinet that spent $4 million on a legal mess that ended up in failure and possible—

Hon. Dr. E. Grant Gibbons: Point of order, Mr. Speaker.

The Speaker: Point of order.

POINT OF ORDER
[Misleading]

Hon. Dr. E. Grant Gibbons: The Honourable Member is misleading the House again. His own Attorney General said today that I think it was $900,000 had been spent. To date.

Mr. W. Lawrence Scott: Mr. Speaker, I do not think that that $900,000 includes the hundreds of man hours and overtime of the police investigation that they had . . . no, it all goes . . . the Honourable Member, Grant Gibbons, says that's different. No it is not, because it is all part of the investigation that supposedly led to these law suits—

Hon. Dr. E. Grant Gibbons: Mr. Speaker, point of order.

The Speaker: Now, let me . . . let me assist both of you Members.

Hon. Dr. E. Grant Gibbons: Yes, the Honourable Member is way off track.

The Speaker: Let me assist both Members.

The comments that were made by the former Attorney General this morning, I will read what a hearing involves. "Before the 2017 General Election, Cabinet had authorised up to $2 million" to be spent on the Cooley. That is what was stated. And it also said that they can't confirm how much was actually spent to date because he is no longer in Cabinet. But they approved up to $2 million.

Mr. W. Lawrence Scott: Okay. Thank you very much, Mr. Speaker. I will carry on.

But, Mr. Speaker, regardless of that, there is no escaping . . . and I repeat, there is no escaping the collective responsibility of Cabinet. Unless, Mr. Speaker, a Member of the Cabinet pulls what I call a Sarah Palin.

An Hon. Member: Oh-oh. What's that?

Mr. W. Lawrence Scott: And if you know what a Sarah Palin is, you know the title of her last book, called *Going Rogue.*

So, the only way that a Cabinet Member can escape collective responsibility is if an individual or a Cabinet Minister goes rogue. So, if the former Attorney General went rogue, that means that Cabinet responsibility is now null and void. If the former Attorney General went rogue, that means that his fellow OBA Cabinet colleagues did not know what he was doing. If the former Attorney General went rogue, when I take my seat, his former Cabinet colleagues will get up and distance themselves from the former Attorney General.

But, Mr. Speaker, I can see why some people do not believe that his Cabinet colleagues did not know what he was doing, because the media coverage surrounding the launching of this case, Mr. Speaker, when the former Attorney General said he was going after Lahey, there was not a media house, a media journalist, that did not have it on their front page. And I am not just talking about one round, one cycle of the news round. This made multiple rounds. Mr. Speaker, if the news could be remixed, it was remixed.

So, the thing is that . . . I mean, . . . it was on *Bernews*; it was on TNN; it was on Bermuda Real; it was on Politico; it was on . . . Mr. Speaker, the *Royal Gazette* and ZBM . . . mercy, they had like a sound boy clash over who could play the most soundbites from the former Attorney General going after Lahey, Mr. Speaker. But also, Mr. Speaker, let's be fair; let's be balanced.

My colleague talked about justice being blind and having scales to make sure that things were balanced. But, Mr. Speaker, I can understand why some people could believe why the colleagues didn't know what he was doing. The thing is that the former Attor-

ney General himself earlier today did it with the blessing of the Cabinet.

[Inaudible interjections]

An Hon. Member: Oh, yes he did.

Mr. W. Lawrence Scott: And the Honourable Grant Gibbons has said that he was right. Mr. Speaker.

But, Mr. Speaker, it is now contradictory because there are some former Cabinet Members who say that they knew nothing about it. And some former Cabinet Members said they knew about it.

Hon. Trevor G. Moniz: Point of order, Mr. Speaker.

The Speaker: We will take your point order.

POINT OF ORDER
[Misleading]

Hon. Trevor G. Moniz: The Honourable Member is misleading the House. What the Honourable Member said was that when the MLAT letter was linked she was not aware of that. It was only restricted to the MLAT leakage that she was not aware; not that she was not aware of the whole matter.

Mr. W. Lawrence Scott: Mr. Speaker, you know what? I am going to move on because I have other points to make, Mr. Speaker.

The Speaker: Yes.

Mr. W. Lawrence Scott: You know what, Mr. Speaker? Even though there were so many headlines, so many stories, so many by-lines about the former Attorney General and his quest to go after, and passionately go after Lahey, the former Attorney General would not answer a single question, Mr. Speaker.

Mr. Speaker, I have got news article, after news article, after news article, when they all have questions being asked and he would not answer them, Mr. Speaker.

An Hon. Member: No!

Mr. W. Lawrence Scott: And, Mr. Speaker, so therefore, you know what? You can say . . . you know what? He was mindful to make sure that he was protected by the Bar of Parliament or Privilege.

But, Mr. Speaker, even in Parliament he would not answer any questions.

Hon. Dr. E. Grant Gibbons: That's nonsense!

Mr. W. Lawrence Scott: The Honourable Member, Grant Gibbons, says it's nonsense. I am so glad he said that, because I have it right here, an excerpt from Hansard, Mr. Speaker.

The Speaker: Are you seeking permission to read from the Hansard?

Mr. W. Lawrence Scott: I am going to ask your permission to read form the Hansard. All right, Mr. Speaker?

The Speaker: When was it?

Mr. W. Lawrence Scott: This is going back to Speaker Horton . . . and I am going to paraphrase it so I can get to the quote, Mr. Speaker. All right?

At that time, the Honourable Derrick Burgess had asked a question, and then Speaker Horton instructed Mr. Moniz that he should be directed to answer the question and not try to hide behind privilege, Mr. Speaker.

Speaker Horton also ruled that there was no need for any indication of the scope because that was what the Honourable Attorney General at the time was trying to say, that if he had answered the question from the Honourable Derrick Burgess, that it would have given insight to the scope of the investigation. All right?

And then the former Attorney General responded that *perhaps we can have an offline discussion about it.* That sounds like somebody who does not want to answer questions, Mr. Speaker.

And, Mr. Speaker, you have been around much longer than I have. And I know I am mature for my age, Mr. Speaker. And I thank you for the compliment. And, Mr. Speaker, it is my understanding (and correct me if I am wrong) that the floor of the House is the place to ask questions. Correct me if I am wrong, Mr. Speaker, that the floor of the House is the place to get answers.

An Hon. Member: You're right.

Mr. W. Lawrence Scott: Correct me if I am wrong, Mr. Speaker, but if this is the place to ask the questions, if this is the place to get the answers, Mr. Speaker, the Honourable former Attorney General could get up and say right now, *It was me.*

An Hon. Member: Yes.

Mr. W. Lawrence Scott: *I did it by myself.*

He could. I am not saying he did, but he could say, *It was me; I did it all by myself. I orchestrated this whole rouse to try and get Lahey in trouble, to try and do other things—*

The Speaker: Honourable Member

Hon. Trevor G. Moniz: Point of order, Mr. Speaker

The Speaker: Point of order. Point of order.

POINT OF ORDER
[Imputing improper motives]

Hon. Trevor G. Moniz: He is imputing improper motives by suggesting that I was using some form of trickery to fool somebody, or rouse, to go after somebody. That is not the case.

The Speaker: He did say that you did not say it. He said you could get up and use this opportunity to say that it was you.

Mr. W. Lawrence Scott: Yes, thank you, Mr. Speaker

The Speaker: He did not . . . I was listening very clearly to make sure he did not cross the line of definitely pinning you onto something that you had not said. He said that if that is what you did, you could get up and say it. Yes.

Mr. W. Lawrence Scott: But, Mr. Speaker, the Honourable Member could get up and say, *It wasn't me. I had the blessing of Cabinet.*

He could say, *Mr. Speaker, I don't have the ability to come up with such an idea, or come up with the plan in which it would work so that I could get Lahey in trouble, Mr. Speaker.* But what we are trying to do . . . we would just like answers to our question, Mr. Speaker.

I have dated enough women, Mr. Speaker, to know . . . right?

[Laughter]

Mr. W. Lawrence Scott: No, no, I'm sorry.

[Inaudible interjections and general uproar]

The Speaker: Now you have everybody's attention. Let's hear your question now. Let's hear the question.

Mr. W. Lawrence Scott: Mr. Speaker, I have . . . life has taught me that if you want to stay out of trouble, answer the question that is asked. Right?

The Speaker: What type of questions was she asking?

Mr. W. Lawrence Scott: Mr. Speaker, like if . . . I will give . . . no. But the thing is that . . . a question is, Why, Mr. Speaker, if you knew . . . why would we spend so much money if we did not have a clear case, Mr. Speaker? Where did we get the evidence from, Mr. Speaker? Where did that evidence come from? Can we get a definitive answer?

And, Mr. Speaker, I mean I have so many questions that need to be answered. And it's not my questions; it's the people's questions. The people want to know why did you go into this case in the first place. Where did you get the information from? What happened to those documents, Mr. Speaker? Can somebody ask the Attorney General what happened to the documents? All right?

Whose idea was it in the first place to go down this road, Mr. Speaker? The people want to know. Inquiring minds want to know, Mr. Speaker.

And all we want to do . . . and, Mr. Speaker, the Honourable former Attorney General has the perfect platform right now. The country is listening. The people want to know, Mr. Speaker. I see the *Royal Gazette*, I see Politico, I see TNN, sitting in the Gallery right now with their pencils sharpened, ready to hear what the former Attorney General has to say. I have never seen this many people in the Gallery this late at night, Mr. Speaker. I no longer feel like I am missing out and everybody else is at the club or something. Everybody is here, Mr. Speaker, because they want to know.

Honourable Moniz, let the people know. Give the people what they want, Mr. Speaker, because the reason that the Honourable Member is sitting in that seat is because the people of his constituency believed that when questions were asked he would answer. When they wanted information he would give it to them. Right, Mr. Speaker? Because I know people who live in his constituency.

I have heard about when he goes and canvasses, Mr. Speaker. Yes, he does canvass, Mr. Speaker.

[Laughter]

Mr. W. Lawrence Scott: And the thing is, Mr. Speaker—

[Inaudible interjections]

Mr. W. Lawrence Scott: But, Mr. Speaker, the one thing that his constituents said is that when they asked him a question he had an answer. So how come he can answer those constituents' questions but he cannot answer our questions here in this House?

[Inaudible interjections]

Mr. W. Lawrence Scott: Mr. Speaker, if the Honourable Member was to stand up right now I would yield my time, give him the extra time I have so that he can go into depth with the answers and let us know where the documents went; let us know who approved the money; let us know why they went into that case in the first place, Mr. Speaker. And let us know where he got the evidence from.

An Hon. Member: Yes!

Mr. W. Lawrence Scott: That . . . Mr. Speaker, . . . I am really . . . and you know I am very . . . I jealously protect my time, Mr. Speaker. But this is of national importance.

It is not Lawrence Scott that wants to know; it is not the wonderful people of God's country, constituency 24 that want to know, Mr. Speaker; it is not the PLP that wants to know; it's the country now, Mr. Speaker, because of the coverage he got. Right? He was on every news media, Mr. Speaker. Every news media in this country he was on, Mr. Speaker. And remember, Mr. Speaker, that the former Attorney General held the seat that was formerly known as the Minister of Justice—which means that the longer he takes to answer these questions, the longer that justice is denied, Mr. Speaker.

And, Mr. Speaker, in closing, I would say, justice delayed is justice denied.

[Desk thumping]

The Speaker: Thank you, Honourable Member. Does any other Honourable Member wish to speak?

The Honourable Member from constituency 36, Honourable Member Scott.

Hon. Michael J. Scott: Thank you, Mr. Speaker.

The Speaker: You have the floor.

Hon. Michael J. Scott: I have a level of call in this country as a member of the Bar, something slightly shorter than the former Attorney General, Trevor Moniz. I do not like, after all of these years of being on this earth, being misled. I do not. And Trevor Moniz, who I have shadowed, and he has shadowed me, knows this like none other at this stage in our career should be misled. But after, as the Minister of National Security—

The Speaker: Just be mindful—

Hon. Michael J. Scott: —indicated that with his last question, what was the—

The Speaker: I was going to say be mindful to refer to Members as "Honourable Members" here and not necessarily by their names.

Hon. Michael J. Scott: —what was the statutory authority by which the then Attorney General, Mr. Moniz, pleaded in matters in a Boston pleading court, the Lahey suit, the matters which, again, the National Security Minister listed the matters out of Dr. Brown's health records, health scans of Brown clinic, GEHI records, emails measuring in terabytes . . . banking, significantly banking records of Dr. Brown. Under what authority did the former Attorney General instruct attorneys to place that kind of information in a foreign pleaded matter? That it is the question that the waiting press—*Royal Gazette*, Politico, Think Media—should be asking as the top question.

Mr. Speaker, we are a nation of laws. So when there is instituted in court proceedings where the party named happens to be a centre of excellence in healthcare provision in the United States and our own Bermuda Government, the Government of Bermuda, and as a not strict party but a person described as a co-conspirator in the personage of Dr. Brown, a former Premier of these Islands, when pleading proceedings are instituted in a court and those pleadings include as its evidence clients' medical scans, health records of Dr. Brown's clinic, emails, banking information and banking information of both Dr. Brown and Lahey . . . and this implicates the treaty because the Lahey records of banking will have been shared in our country only as a consequence of the treaty arrangement where Lahey's banking information would have ended up in Bermuda directly in the hands of law enforcement. In the hands of law enforcement; that is the only way that we can find Lahey's banking information in the pleadings.

So, we are a country of laws and when that pleading is made in the Lahey's suit without—and you can read it—without Cooley pleading, Mr. Speaker, pleading the statute in Bermuda by which the former Attorney General obtained these pieces of evidence, it calls into question greater than irregularity . . . it calls into question illegality. It is unlawful.

The Speaker: Well, well, I am going to ask you to be a little guided on that because I think some of his statement earlier this morning—

Hon. Michael J. Scott: I am not taking his statement, Mr. Speaker!

The Speaker: —earlier this afternoon—ah, ah, ah, ah, ah—

Hon. Michael J. Scott: I am challenging his statement!

The Speaker: Ah, ah—his statement earlier today spoke to some of that. So, just be guided how you go around that in that regard.

Hon. Michael J. Scott: I am getting around it. I am coming around—

The Speaker: Just, just be guided—

Hon. Michael J. Scott: —the wicket.

The Speaker: Be guided. Be guided how you go around it.

Hon. Michael J. Scott: Mr. Speaker, Mr. Speaker, I am making a simple analysis—

The Speaker: Okay—

Hon. Michael J. Scott: —of pleadings.

The Speaker: I am sure you are capable of getting around it. I am just reminding you to get around it rather than step into a hole.

Hon. Michael J. Scott: I want to understand. So does *The Royal Gazette*, so do the people of Bermuda, so does this Government want to understand how there could be a pleading of these kinds of . . . these specific elements of evidence without there being a statement of the statutory basis under which the evidence is pleaded in the pleadings. It is the reason, no doubt, that Judge Talwani must have asked that question. It would have been the beginning of the death knell to the case before her. She would have looked for that immediately. It was not there. So, to state it without the statutory—Bermuda statutory—basis would have raised a prominent question in my view.

So, like the Minister of National Security, rethreading the needle, we have to ask, how is it that evidence of this kind by the former Attorney General was instructed and sent to Boston, rethreaded by setting out how it ought to happen and it is both prophetic and timely that we have just finished dealing with POCA—POCA (Proceeds of Crime [Act]) as stated in the former Attorney General's personal explanation today is implicated. This is what the former Attorney General said, "I do not know" (with your permission, Mr. Speaker) "what the final cost will be . . ." but "Cabinet had authorised up to $2 million for payment to Cooley in support of a comprehensive programme of civil litigation and recovery of the proceeds of crime." This implicates the proceeds of crime in the former Attorney General's own words.

Now, Mr. Speaker, the Proceeds of Crime Act has a provision in it for the pursuit of civil recoveries. But . . . it is contained in Part III directly implicated in the former Attorney General Mr. Moniz's personal explanation today. Civil recoveries, et cetera, for unlawful conduct. It relates to instituting proceedings, unlawful conduct . . . and, Mr. Speaker, what it implicates is that you go after proceeds of crime at the conclusion of a crime . . . at the conclusion of an offence. Now, Dr. Brown has not been charged with any offence. But the former Attorney General states that his action was as a consequence of going after proceeds . . . was pursuant to proceeds of crime.

Hon. Trevor G. Moniz: Mr. Speaker—

The Speaker: Point of order?

Hon. Trevor G. Moniz: Point of order, yes.

The Speaker: Yield, Member—

POINT OF ORDER
[Misleading]

Hon. Trevor G. Moniz: The Member is inadvertently misleading the House. There is a difference between the Lahey case, which was a RICO case in the Federal Courts in the United States. That was not a case pursued in Bermuda under the Proceeds of Crime Act—that was a RICO case. But there was a much broader programme for which—

An Hon. Member: Aah!

Hon. Trevor G. Moniz: Well, that is exactly what I said this morning. He quoted me and it was absolutely correct.

[Inaudible interjection]

The Speaker: Thank you. Be mindful of his comments—continue.

Hon. Michael J. Scott: A broader case . . .

So, under the Proceeds of Crime, which is the only way that we can thread this act together because I am not pleading with the former Attorney General to stand up and tell us. It is very clear he is not intending to do so. It is the very reason that we are still here today after he was discharged from the House asking questions about this case.

Here is what I puzzled, Mr. Speaker. So under section 40 there is an entire new body of law of our country—and we are a country of laws—that deals with the obtaining of information, Mr. Speaker. Information gathering powers is provided for, under Part IV of the Proceeds of Crime Act. The former Attorney General, I posit, resorted to the least . . . the least troubling section, section 41, of the information gathering powers which he ushered unto himself as the authority, the enforcement authority, of this country. Again, under this Act, under section 36F of the Proceeds of Crime Act as the enforcement officer in civil proceedings for the recovery of proceeds of crime he is entitled, of course, to trigger an information gathering protocol. And how he did it, I posit, was to rely on section 40—the disclosure of information by government departments—by going to government departments first led . . . first led we say by gathering information from the police authorities here. That information would have been clear treaty information because it contains Lahey information—

Hon. Trevor G. Moniz: Point of order, Mr. Speaker.

The Speaker: We will take your point of order.

POINT OF ORDER
[Misleading]

Hon. Trevor G. Moniz: The Honourable Member is misleading the House. I stated quite categorically this morning—and I think you yourself, as Speaker, accepted it—that I did not use information from the MLAT or from any criminal justice gathering procedure to develop this case. That was not true. So, he is misleading the House.

The Speaker: That was in fact part of the statement from this morning. Correct.

Hon. Michael J. Scott: Mr. Speaker, thank you.

Mr. Speaker, I did not say that a moment ago. I said that the reference to Lahey's bank records as exchanged with Dr. Brown's bank records . . . unless Lahey wrote a personal note and letter to the Attorney General, then Attorney General, saying, *Oh, here is all the information about Lahey*. It could have only been obtained as a consequence of the Treaty arrangements.

[Inaudible interjections]

Hon. Michael J. Scott: I am clear on this as a practitioner . . . as a practitioner.

[Inaudible interjections]

Hon. Michael J. Scott: And so, the pleading before Judge Talwani implicated in evidence Dr. Brown's bank records exchanged with Lahey's accounts in figures that were clear and plain—$514,000. And the question is clear and the answer is clear. This information was obtained without the proper statutory authority.

Mr. Speaker, I was referring to section 40 of our laws of this country and it provides thus that (with your permission) . . . first of all, it would be helpful if we just look at the information gathering powers under section 37 . . . involves "a police officer [can] apply to the Supreme Court [of these Islands] for an order . . . " to investigate drug trafficking, money laundering and whether a person has benefitted from crime.

Secondly, under this same section 37, it sets out that this police officer must use certain protocols of protection. This is the rule of law applying and the constitution of provisions of fairness applying. It says that the conditions are . . . and it sets out the conditions, and they include stating that items recoverable must not be subject to legal privilege. There must be reasonable grounds for that police officer believing that it is in the public interest. These are the things that he must go before a judge and satisfy the law. So, you begin to see the protocols for protections that are in place.

Now, for the section that I say was used by the former Attorney General going into government departments (IT or GEHI) and getting all of Dr. Brown's information, was section 40. And it provides that, under the top heading, "Disclosure of information by Government Departments—Subject to subsection (4), the Supreme Court may, on [the] application by the Director of Public Prosecutions, or the Attorney-General in the case of a civil recovery investigation, order any material mentioned in subsection (3) which is in the possession of a Government Department."

And so the answer to the question I have posed, which the Attorney General, former Attorney General will not answer—has not answered it despite the sophistry of a 15-minute statement has still not answered, and so we are still in the position that we were in after the ruling dismissing the case—what was the statutory authority by which former Attorney General Moniz filed in the Lahey courts evidence of Dr. Brown's records, Dr. Brown's emails, Dr. Brown's patient scans, Dr. Brown's banking records?

Now, that question has to be asked. I began by saying that after 36 years of practice, the former Attorney General has practiced for slightly more, these are basic questions and basic answers are required. But the answer is actually provided by this libretto called the Proceeds of Crime Act which the Attorney General, former Attorney General, has not had the decency to disclose to this House, was his MO, his *modus operandi*.

But what he said was that . . . let me be clear (again, your permission) . . . when I was Attorney General, Mr. Speaker, neither I nor any lawyer on behalf of the Government of Bermuda used material from a criminal investigation. Well, you are darn tooting he did not. What he used was information gathered from department of the Government of Bermuda. Various departments, on a troll, gathering this information contrary to section 41 which required the former Attorney General to seek a court order—

An Hon. Member: Oh!

Hon. Michael J. Scott: —due process—

[Inaudible interjections]

Hon. Michael J. Scott: —due protections to the citizens of this country, Dr. Brown or anybody else. We are a country of laws. And if these laws are not observed, the former Attorney General was committing an unlawful act—

An Hon. Member: Yes, he was.

Hon. Michael J. Scott: —breaching our constitutional rights. And that is the charge that you stand charged with today until it is made absolutely clear beyond not this court but the court of the judiciary. These things are very important and we are duty bound, Mr. Speaker, to share them with this House and to share our concerns about them.

After this sophistry of a statement, it is like ploughing the sea. Nothing given about the truth of a major case, civil proceedings . . . founded upon, rested upon a civil proceedings foundation, a civil recoveries foundation under the POCA Act to demand the evidence from government departments, using, doing so without a court order or an application to the Supreme Court, placing them in a document in America, leaving the current Attorney General without an opinion . . . without an opinion. I mean, I can understand . . . and I heard the Attorney General say that he took legal advice—

Hon. Trevor G. Moniz: Mr. Speaker, point of order.

The Speaker: Yes—

Hon. Trevor G. Moniz: He is—

The Speaker: Point of order?

POINT OF ORDER
[Misleading]

Hon. Trevor G. Moniz: Point of order, yes. He is misleading the House again. You know, at the time when the new Attorney General was appointed I invited her to speak to me at any time, and I was open. But Cooley has all of that information, and she had some information as well. Believe me—

[Inaudible interjections]

Hon. Trevor G. Moniz: Yes, she did.

The Speaker: Thank you for the information. Member, continue.

Hon. Michael J. Scott: Mr. Speaker, there was not a . . . after all of this . . . after the dismissal, after the questions in the House last Wednesday and after the personal explanation today, the question that any lawyer of the former Attorney General's experience would be, Why not leave the legal basis, the legal opinion, on which you relied to commit hundreds of thousands of taxpayer money in litigation? Why not leave the opinion on which the prospects of success were based in Chambers? Even if you took everything else, this would have given a reasonable succeeding Attorney General a sense of a map, a legal map, to follow.

There is insult to injury added in that the current Attorney General was not able to find that legal opinion in Cooley's possession either. If the former Attorney General is continuing to make this lame case that all that was capable of being delivered—

Hon. Trevor G. Moniz: Mr. Speaker, Mr. Speaker, point of order.

The Speaker: Point of order. We will take your point of order.

POINT OF ORDER
[Misleading]

Hon. Trevor G. Moniz: The Honourable Member is misleading the House. Cooley wrote the opinion. How would they say they did not have the opinion? It is ridiculous.

The Speaker: Member.

Hon. Michael J. Scott: Before Cooley were instructed as the Shadow . . . as the Minister for National Security indicated, any reasonable, skilful, competent Attorney General would have worked out . . . because the Bermuda evidence was what the case was based on, going to either live or die by, any reasonable Attorney General would have obtained an opinion as to the prospects of the case. It does not fall to Cooley to give that opinion.

You have to understand before you commit dollars to Cooley what are the prospects of the case being instructed, that you are instructing Cooley with. I am completely amazed that the National Security Minister confirmed in his analysis, it obviously comes from Chambers, that the lawyers to which the former Attorney General referred to, "neither I nor any lawyer on behalf of the Government of Bermuda used material from a criminal investigation to support the proceedings. Everything in the Lahey [civil complaint] was sourced" . . . I misread, forgive me, Mr. Speaker, it is the point about the lawyers who gave him advice. Just let me find it.

[Pause]

Hon. Michael J. Scott: The former Attorney General, Mr. Speaker, indicated that on the advice of lawyers he took the position of filing this action in Boston. And the advice did not come from anyone other than a lawyer of three years' call.

If that is the truth, then this just adds to the mad, mad, madness of the Attorney General's actions in connection with this case. I was sure that when the Attorney General referred to the lawyers from whom he took, as it were, independent advice, this would have been the beginning of getting a sense of the strength of this suit before he sent it over to Boston. This would have been the beginning of his informing himself of the strength of the case. And it was not one of the lawyers or senior practitioners in this country. I cannot . . . if that is what the Attorney General will say or if it is discovered to be the case—we believe that to be the case—this, too, is amazing.

And it also bespeaks why Judge Talwani, within a short judgment, found this case unfactual, implausible and untruthful.

Hon. Trevor G. Moniz: Point of order. Point of order, Mr. Speaker.

The Speaker: Yes, we will take your point of order.

POINT OF ORDER

Hon. Trevor G. Moniz: That is very dishonest of the Member. Judge Talwani dismissed the case on the technical ground of the lack of domestic damage. That was all. She actually said there was basis for criminal charges and for civil claims, both in the State Court and in Federal Court for people like Johns Hopkins. I clearly stated that.

The Speaker: Thank you.

Hon. Michael J. Scott: No, she did not. This is what Judge—

The Speaker: Just be mindful—

Hon. Michael J. Scott: —Talwani said—

The Speaker: —of the interjections.

Hon. Michael J. Scott: This is what Judge Talwani said under the standard of review, under the standard of her review, a motion under Rule 12(b)(6) of the Federal Rules of Civil Procedure. This is the *ratio decidendi* of her case—not the opinion, not the *obiter dicta* of the Rules of Civil Procedure to dismiss a complaint for failure to state a claim upon which relief can be granted is properly allowed when the complaint does not contain sufficient factual matter, accepted as true, to state a claim to the relief that is plausible on its face.

Now, that is an indictment—a damning indictment—of the absence of truthfulness, plausibility, or legs of the civil action. The point to which the former Attorney General and the Member Ms. Gordon-Pamplin continue to banter on about, on the criminal proceedings, is opinion—*obiter dicta*—has nothing to do with what will be referred to in history as the decision in this case. It was implausible, it was insufficient factually, it was not true or plausible on its face—did not state a true claim. That is the decision.

We should hear no more about the possible, in her (the Judge's) opinion, prospects of criminal charges against Lahey—not against Dr. Brown! So, stop this silliness!

[Inaudible interjections]

Hon. Michael J. Scott: That was her opinion. I will read it if you like.

And, so, Mr. Speaker, we are no better off except that we now have a very clear legal basis. Section 40 of the Proceeds of Crime Act, has been breached. All of this information is only obtained under court order to the Supreme Court, as it should be, because we are all entitled to the protection of the law under section 6 of the Constitution.

[Inaudible interjections]

Hon. Michael J. Scott: And we are entitled not to have our public information, our private client information, our banking records, sourced into a trial in Boston without due process—and there was not due process. This is the charge that this country has to stay attuned to and that the former Attorney General must meet . . . must meet.

So, Mr. Speaker, what was the statutory authority under which these pieces—

The Speaker: Three minutes.

Hon. Michael J. Scott: —evidence appeared in the Boston pleadings, in the Lahey suit? And we will not get the answer to this. But I am obliged to share with the House and with you, Mr. Speaker, and the people of Bermuda that the only way that this information ought to have appeared is under the properly applied for application under section 40 and a court order assessing whether this information is and ought to have been properly disclosed in these pleadings. It was not and it is worse than a travesty, it is completely unlawful. Thank you.

The Speaker: Thank you, Honourable Member. Does any other Honourable Member wish to speak?

I recognise the Honourable Member from—the Honourable Deputy Speaker.

Honourable Deputy Speaker, you have the floor.

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

Mr. Speaker, I guess it puzzles me somewhat to know that only members of the PLP are investigated. And, Mr. Speaker, those investigations of Dr. Brown, Lahey, Commission of Inquiry, Dr. Reddy and members of the Progressive Labour Party are nearing, I would imagine, about $10 million and continue, Mr. Speaker.

Mr. Speaker, the case against Lahey was indirectly a case against Dr. Brown. That is what it was and there can be no other way because it was designed to go after Dr. Brown, Mr. Speaker.

Mr. Speaker, they have been after Dr. Brown since the late 1960s. In fact, Mr. Speaker, during the 1960s and 1970s during the riots the comments made about Dr. Brown by the hierarchy and even the resident of Langton Hill—the biggest house on Langton Hill—has been against Dr. Brown.

But they do not tell you that Dr. Brown quelled the riots in the 1960s and 1970s—they did not tell you that. Stopped them, Mr. Speaker.

You know, there is a group that calls themselves "Concerned Bermudians," Mr. Speaker. And they are a white supremacist group (got a few brown-skinned people in there). But they wrote to a UK Member of Parliament named Andrew Rosindell who visited Bermuda, and they wrote some negative stuff about Dr. Brown and even went after his wife. And they said how could a black woman own a house in Martha's Vineyard. Oh yeah. And they even went as far as to attack his children, Mr. Speaker. That is how evil the actions, the behaviour, of some people in this country have been, Mr. Speaker.

Mr. Speaker, this morning (this afternoon, I should say) we heard the former Attorney General say that files were stored with somebody (whoever they were). But, Mr. Speaker, if the files were stored with someone else, why did the PLP Government have to pay to get files? Because, Mr. Speaker, like any law firm that has represented anybody, you get copies of a file. That is all in the price. But that was not so for us. We paid thousands of dollars to get files that are supposed to be stored at the Attorney General's Chambers. But I guess they could not trust anybody in the Attorney General's Chambers because you heard the former Attorney General say this morning that there was a leak out of the Attorney General's chambers. And, you know, they make these allegations to justify why the files were not left in the Attorney General's Chambers, Mr. Speaker.

Mr. Speaker, I see why the population of Bermuda's prisons, the ratio of whites to black is how it is. And, Mr. Speaker, any whites that are in Westgate . . . most of them are from overseas. There are very few local whites. And, Mr. Speaker, they do wrong like us, my cousins, but they do not go to prison. Mr. Speaker, as I have said before, when young white little boys get in trouble, they call their parents (and I will keep saying this here, so I am repeating it), but when young black boys get in trouble they call the police, Mr. Speaker.

Mr. Speaker, the Concerned Citizens, that white supremacist group, they wrote to the MP in the UK and they said there is an endemic problem with the PLP Government. And you know what endemic means, Mr. Speaker. It is a disease or condition found among particular people in a certain area. But they describe that as corruption, misuse of power, highly questionable use of public funds.

Mr. Speaker, in their minds that seems to only fit black folks. And they cite in their letter about the former leader of Turks and Caicos who happens to be a friend of Dr. Brown's. So, I guess they say, well they are friends, birds, whatever they want to call it but . . . but, you know, Mr. Speaker, I can recall (and most of us can recall) that there was a bank in Bermuda that violated the laws in this country. And it had to be backed with $200 million by the PLP Government to come into conformance with the law. Nobody went to court. Nobody went to jail.

And I can recall there was a young black couple that had a firm . . . and I am not condoning anything wrong. They had some problems in monetary, they ended up in court and it was not no $200 million. You see the difference in us and them? And that is why the prisons are like they are.

And then, Mr. Speaker, HSBC, they got a subsidiary here. [They were] fined hundreds of millions of dollars for wrongdoing. But nobody mentions that because it is not a black bank. They do not mention that.

And, Mr. Speaker, this group went on to say that in 1998, Bermuda was well-managed by the UBP. But that changed in November 1998. Mr. Speaker, yes it changed. I am going to repeat this again, too, because the 1998 audit . . . the language is probably what it should be. Never mentioned corrupt, misuse of funds—nothing like that—or highly questionable behaviour. But when we came into power it did, because, Mr. Speaker, you know, when you could get in the Auditor's Report in 1998 . . . I got to repeat all this stuff, Mr. Speaker, because people forget. The Government was short-changed out of $16.3 million because law firms in the country undervalued real estate in order to pay less stamp duty. That is in the Auditor's Report. I did not make that up, Mr. Speaker. And there was no investigation, Mr. Speaker.

Fronting, accommodated by law firms in Bermuda. That is those who bought houses in Bermuda without a licence. And it is about . . . I think it was over 100 cases in the Chambers, probably in Immigration. If you can recall, Mr. Speaker, when the Honourable Colonel Burch was the Minister of Immigration, he took one house, and there are many more that we would have to prosecute, Mr. Speaker. But they did not . . . and during the five years of Government of the OBA, they never pursued that because most of them were lighter than me! The culprits—all of them—were lighter than me. So, they are not . . . but I can tell you something. If those folks were black they would have been before the courts, Mr. Speaker.

Then, Mr. Speaker, there were drugs in our container that came in this country in the name of an MP. And I am not going to say that an MP was guilty. I am never going to go there. But what we get highly offended by is that the Commissioner of Police was ordered to stop the investigation. Others have too. It was a case in court not so long ago similar. Fellow had to go to court—Supreme Court. But it does not happen to white folks, particularly those from the other party. If it was Zane De Silva, they would have investigated him, Mr. Speaker.

Mr. Speaker, you know, when this group, Aecon, came in here (I think that is what they are called), they came in here under cloak of darkness. And if you see in some of the correspondence, they

said, *Well, let's use someone else's letterhead and come in here*. That should have sent red flags flying! But there was no investigation.

Yes, Grant, you telling about the drugs that I just said about. Yes, it's okay—

[Laughter]

Hon. Derrick V. Burgess, Sr.: I understand. But it is the truth. Right?

But there was no investigation on Aecon.

Mr. Speaker, they had a case similar to that down, I think it was in Cayman or Turks and Caicos—one of those islands. And the British Government stopped it. Why did they not stop this one? And it did not go out to tender. In fact, the former Attorney General said, and if you let me read this, Mr. Speaker—

The Speaker: Go ahead.

Hon. Derrick V. Burgess, Sr.: —from an interview, he said, "Unless you have an open tender, that is the definition of corruption."

Several Hon. Members: Oh!

Hon. Derrick V. Burgess, Sr.: That was the former Attorney General Trevor Moniz.

An Hon. Member: Whoa! No way!

Hon. Derrick V. Burgess, Sr.: Yes, it is in the papers. But, that did not happen down at the airport. It did not happen with the lawyers that represented Bermuda with the Lahey case. No, it did not happen there. It did not happen for the lawyers that we paid over $4 million to represent the Government to drop the contract that we cannot get out of for the airport. It did not happen. They just went ahead. That is corruption according to the . . . that is what the former Attorney General said. It is corruption, because it was not an open tender.

But, see how it is okay for them to do it? If it was us, it would have been in the newspaper for 40 days and 40 nights—front page, saying how wrong the PLP is . . . the behaviour, Mr. Speaker.

Mr. Speaker, we know in 1998 corruption became a part of our vocabulary—misuse of funds, November 1998, Mr. Speaker. You know, Mr. Speaker, if the Dame Lois Browne[-Evans] Building contract had gone to the white contractor that the technical officer said to give it to, we would not need no audit, you know. None whatsoever.

An Hon. Member: Don't worry about overrun.

Hon. Derrick V. Burgess, Sr.: Oh, yeah, no overruns because, you know . . . Heritage Wharf. The improvements for Heritage Wharf was 25 per cent over budget—$6 million!

An Hon. Member: Who was the Minister?

Hon. Derrick V. Burgess, Sr.: Oh, the Honourable Attorney General Trevor Moniz was the Minister. But there was no special audit. But had that been one of us—special audit. Special audit!

You see the two types of treatment that pervades this country? And some of them get this concept we should work together. And you smile with your face when you are persecuting me at the same time you are smiling at me. Cannot work together. How are you going to do that?

An Hon. Member: Bermuda style.

Hon. Derrick V. Burgess, Sr.: And any time we give a contract, the PLP gives a contract, to a black person it is corruption or scandal. That is the way the see us, Mr. Speaker.

Mr. Speaker, they spent over $1.5 million on their Commission of Inquiry and they stacked the commission panel with people that do not really believe that blacks should earn the best profit they could. They believe blacks should have a cap on their income. They wrote it! I am not speculating. They wrote that, Mr. Speaker! This same Commission of Inquiry that was set up by Premier Dunkley broke their own rules, Mr. Speaker.

If you do not mind, Mr. Speaker, I will read an excerpt from their procedural statement. They said in their procedural statement that they sent out to everybody, they said "the Commission is an inquisitorial and not an adversarial process. It will gather in the relevant documents, obtain witness statements and decide from whom oral evidence should be heard. The Commission will not treat those from whom it obtains any such material or from whom it obtains witness statements or hears evidence as parties in an adversarial contest or trial."

Let me finish these last few lines, Mr. Speaker, "It is the Commission's expectation that all questioning of witnesses at the Witness Hearing will usually be undertaken by Counsel to the Commission, on the Commission's behalf. There will be no general right" (let me read that again) "there will be no general right to examine or cross-examine witnesses, but in individual cases the Commission may be prepared to allow further questioning by parties or their representatives."

Mr. Speaker, that is what they had done! They cross-examined you like you were a criminal! They had a former leader, Mr. Speaker, one of our former leaders asked a question four different ways like they were cross-examined. No need to tell you how they tried to hammer me. And they also . . . civil servants. Yet I did hear members from the other side during the

budget debate get up and praise the civil servants, the same ones that they persecuted down at the hearing, Mr. Speaker. Made them look like common criminals, Mr. Speaker.

And the makeup of that Commission, their background is questionable toward black people. How do you take these people to judge black people? I said that last week. I got to say it again, Mr. Speaker, because, you know, what they said . . . they think that black people's incomes got to be capped.

Let me read this little line on what they said about some black folks. They said the level of compensation for providing collateral appears on the face to be excessive. They were talking about two black folks, Mr. Speaker!

Why is it, Mr. Speaker, why is it that blacks have to have a cap on their income but whites . . . they sky is the limit? That is why we have the [dis]parity of income between blacks and whites that is widening every day, Mr. Speaker. And these are the type of people that they put to judge you. They put them there because they want a certain outcome, to make you look like criminals. And they throw all these allegations up about you; put it on the streets. They know what they are doing because some of our own folks believe that stuff, Mr. Speaker.

But, you know, Mr. Speaker, there was never a shortage of funds to pay law firms.

Mr. Speaker, you know, let me go to the airport situation. You know, Mr. Speaker, in order to waive certain things for tendering, you have to get permission from the Accountant General. And the Government of the day made a verbal request to the Accountant General. He did not know and he told you. He said, *I never got any documents because I would have never made that decision based on the scope of this request. Never!* But a verbal . . . a verbal! When you get that at that level, you figure it is just something small. But he was asked a verbal question, a request, to give away . . . how many acres are down there? Over 50 acres, over 100 acres . . . give it away for 30 years, give our post office away, Mr. Speaker, now we have to rent the post office at a cost of $30,000.

Mr. Speaker, that $10-plus million that they spent for legal fees . . . no problem paying that. But we had a problem finding money for seniors. In fact, the Government told seniors *money does not grow on trees*. We got mould in our schools. Our children need scholarships, Mr. Speaker. No money for that. But we got $10 million to pay millionaires and billionaires.

Lawyers had no problem, and the rates they charge . . . Ms. Smith could never afford them. Over $10 million! Four million dollars to write up a contract for the airport. A rip off! I am telling you, that Government paid a lot of money to lawyers—all their friends. If that was us they would call that corruption, Mr. Speaker.

Mr. Speaker, the way they handled Dr. Reddy. What did that cost? Going to Dr. Reddy's house looking for evidence early in the morning—like he has got somewhere to go. Like there is somewhere that he can get in a car and drive. Where is he going to drive? To St. David's and back? That is what they had done, trying to . . . and they did embarrass him and try to ruin the business of Dr. Brown. That is what they had done. That has always been their objective. To take Dr. Brown out, and yet the resident of Langton Hill, of the biggest house on Langton Hill, can order an investigation based on an allegation somebody said, but could not order an investigation on the $16.3 million that law firms fleeced the Government out of—the fronting—millions of dollars that the Government has been fleeced out of there. Never ordered that. But when it comes to black folks they order it—investigations. And still doing it. Millions of dollars, Mr. Speaker.

And, Mr. Speaker, I would urge the folks, particularly those that have leanings to be white supremacists, that they need to change. This country is only 22 square miles. I hear a lot of foolishness from . . . I call it foolishness from them because they do not mean what they say. They want to work together . . . they do not want to work with us. They want to work with us to conquer us. That is why they want to work with us, Mr. Speaker.

And, Mr. Speaker, let me say this here, let me remind people. When Dr. Brown came back here to practice medicine, they gave him—

[Timer beeps]

Hon. Derrick V. Burgess, Sr.: That is my time?

The Speaker: Deputy, I would like to thank you for your contribution—

[No audio]

The Speaker: I now recognise the Honourable Member from constituency 29. Honourable Member De Silva, you have your 20 minutes.

Hon. Zane J. S. De Silva: Thank you, Mr. Speaker.

The Speaker: I do not know if you will use them all—we will see—

Hon. Zane J. S. De Silva: Okay, I will try to be as efficient as I can.

The Speaker: All right.

Hon. Zane J. S. De Silva: For both you and I, Mr. Speaker.

The Speaker: Go ahead.

Hon. Zane J. S. De Silva: Mr. Speaker, we had a personal explanation today. We know that the Lahey lawsuit has been in the news heavily over the past several weeks. And it seems like the main question that has come out of this ruling is: Where did the information come from?

An Hon. Member: Yes.

Hon. Zane J. S. De Silva: Where did the information come from? The former Attorney General had an opportunity today when you gave him the privilege to spend all day putting that document together, Mr. Speaker—

The Speaker: We took the right time. We put it at the right time.

Hon. Zane J. S. De Silva: We did not hear anything. We did not hear anything about the most important thing in this whole case. And that is, where did the information come from? We did not hear an explanation of a court order that may have been sought and received. None of that, Mr. Speaker. None of it. And I am sure you do not mind me referring to the personal explanation given by the Honourable former Attorney General today—

The Speaker: As long as you ask permission and I grant it.

Hon. Zane J. S. De Silva: And with your permission I would like to—

The Speaker: Sure.

Hon. Zane J. S. De Silva: —use it for my 20 minutes, Mr. Speaker.

And in his second paragraph, the Honourable Member stated, "I will not stand idly by while my integrity . . . is undermined."

Wow! Wow, Mr. Speaker.

Well, are we going to get some information? Are we going to get the answers to where he received his information from? Are we going to get that, since we are talking about integrity? And since we are talking about integrity, Mr. Speaker, with your indulgence, I also have in my hand the writ, the lawsuit that was filed in Boston. And one of the things . . . because you know we are going to be careful not to get personal tonight—

The Speaker: Yes, it has to be factual.

Hon. Zane J. S. De Silva: You know we are going to be very careful—

The Speaker: Be factual, be factual.

Hon. Zane J. S. De Silva: —because you know it was . . . some words were uttered in the last couple of weeks about vendettas and personal vendettas and politics and things like that. But we are not going to talk about that tonight.

But, Mr. Speaker, in that writ on page 2, point 3, "Brown benefitted handsomely from the scheme, collecting millions of dollars in fees he split with Lahey, which enabled him and his wife, Wanda [Henton-]Brown, to purchase and maintain real property in the United States, including a home worth in excess of $3 million on Martha's Vineyard and apartments in New York, and properties in Turks and Caicos."

And, Mr. Speaker, we do not want to say it is personal, but that same Honourable Member also said three weeks ago in this House, he said the public want to know if Dr. Brown was a major donor. Remember that, Mr. Speaker? Because I do. I wrote it down. Three weeks ago. And, when you look at the—first of all, that is factually . . . it is absolute incorrect information with regard to some of the things in this lawsuit.

And, it all ties back in to the personal explanation and then roundabouts back to the lawsuit again because, first of all, Wanda Henton-Brown or Dr. Brown do not own any apartments in New York. Now, you would think that if the Honourable former Attorney General is going to spend millions of the taxpayers' dollars he would at least get the information correct in the suit itself, which he has not done. But, you see, it seems as if black people cannot get their wealth above a certain level in this country. The Honourable Attorney General might want to know that you have got some Portuguese people who own houses out on Martha's Vineyard, too. I wonder if they are going to be labelled as some others have been labelled.

But, Mr. Speaker, let us jump back to this statement because if you look at . . . the Honourable Attorney General was saying that he did not . . . and let me see if I can find it in here for you, Mr. Speaker—"Everything in the Lahey civil complaint was sourced from locally available evidence owned or maintained by the Government of Bermuda."

Well, how did he get it? How did he . . . how could he file in this lawsuit that Dr. Brown was paying monthly payments of $65,000?

[Inaudible interjections]

Hon. Zane J. S. De Silva: How?

Was that in a Government email? Was that in some kind of Government document? And . . . and he did also state in the same writ/suit in one of his accounts. So how many of the accounts did the Attorney General have of the former Premier Dr Brown? And I will sit down and I will yield if the Honourable Member wants to give up some information, because he is quick to point-of-order all my colleagues tonight. But I

guess he does not want to give any points of clarification on that.

See? He also said in this suit, Brown benefitted handsomely. Well, you know . . . See? You wonder why we talk about race in this country. So here you have a black couple that happen to make millions of dollars in a business that they worked very hard for. A lady that has worked on Wall Street for umpteen years; went to university at 14! She is a very smart lady; just happens to be a little wealthy too. But, I do not hear anybody knocking Dr. Gibbons for the wealth he has accumulated!

An Hon. Member: Aah!

Hon. Zane J. S. De Silva: I do not hear anybody knocking him for that. I do not hear anybody asking him about how much he donates to the OBA or the UBP.

Hon. Dr. E. Grant Gibbons: Oh, are we getting personal now?

[Inaudible interjections]

Hon. Zane J. S. De Silva: I do not hear anybody questioning John Swan's net worth. He was Premier for 13 years.

You know . . . See the thing is . . . see us folk that have to start from scratch, we know what it is like to start from scratch and accumulate wealth over time. But the Honourable Attorney General would seem to think (to me) that because Dr. Brown opened a business in 1993 that by 2018 he is not supposed to be wealthy. He must have stolen something.

But see? It all leads back . . . where did the information come from? And my honourable colleagues, Minister Caines and Minister Michael Scott gave you the legal side of things. And, to me, it was straightforward. You should have had a court order! Why, in this personal explanation, is there not anything that says *this is where I got the information that everybody is looking for*?

An Hon. Member: Because he did not have a court order.

[Inaudible interjection]

Hon. Zane J. S. De Silva: Oh, because he did not have a court order. Well, is that operating a little outside of one's remit?

An Hon. Member: Yes.

Hon. Zane J. S. De Silva: I am not going to say it is illegal, but maybe that is true, too. I do not see a point of order coming on that.

[Inaudible interjections]

Hon. Zane J. S. De Silva: Now, one, two, three, four, in the fifth paragraph of this statement, Mr. Speaker, and I quote, "Relevant files were forwarded to Cooley LLP for storage on behalf of the Government of Bermuda," (now here is the kicker) "much of it in electronic format." Much of it! So not all of it. So the Honourable former Attorney General said it was all sent electronically.

Now, I will tell you what I heard for the first time tonight. Minister Caines told us it was 2.5 million documents! Now, I do not know about you all but my experience is I go talk to a lawyer, I say, *Hey, how are you doing this morning. Look did you get my email?* I hang up. I get a bill for $250. Two and a half million documents?

[Inaudible interjections]

Hon. Zane J. S. De Silva: So, now we have another question for the Attorney General—much of the information, much of it—was in electronic format. So where is the paper? Will the Attorney General do a point of order? Or was that flown up on some Landow Jetgate plane? What did you do with the paperwork that you had leftover? I am not . . . so much of it was electronic. Was it that the paperwork that was leftover someone shredded it by mistake when he left office? Maybe he will answer that tonight before we leave.

Now, Mr. Speaker, I might need some help here and maybe the former Attorney General can help me. And I will quote from his statement. "Mr Speaker, last year, there was a leak from Chambers of highly sensitive correspondence."

Now, Mr. Speaker, the Honourable Member goes on to say . . . let me refresh us. Last year . . . now, we are in 2018, last year there was a leak from Chambers. Now, let us jot down some notes. The writ was served on February 14 last year. Okay? Last year there was a leak from Chambers of highly sensitive document. That is why the Honourable former Attorney General says that he sent them away electronically, because he had some issues with those in Chambers, documents being sent out. There was a leak. So, if the writ was served on the 14th and the leak was last year, did the leak happen before or after the documents were served? There is something wrong with that picture.

It's liable . . . the documents were leaked between January 1st and February 13th or that . . . I am not going to say it's a lie, Mr. Speaker. It is not the truth.

The Speaker: Yes, that would not be too nice.

Hon. Zane J. S. De Silva: No. I am not going to say it's a lie.

But maybe the Honourable Member can again jump up and give me a point of clarification. When was this leak? And by the way, if we had a leak out of Chambers, what was done, if it happened last year? I did not hear anything about that. I do not recall any ministerial statements coming to this House about documents being leaked form Chambers.

Mr. Speaker, we know, we now know that there has been much talk, especially from this side, about the information, this personal information that was received and put in this writ by the former Attorney General. It is some funning things, though, again referring to his speech this morning. And I quote, "As Attorney General I made the decision to issue proceedings with the previous Cabinet's blessing, . . ."

With the previous Cabinet's blessing. We will talk about that for a minute too. So, in other words . . . well, we know that in Cabinet there is a thing called "collective responsibility."

Now, collective responsibility, Mr. Speaker (for those who do not know what it means), it means that if there is a decision in Cabinet, that it is everyone's decision in Cabinet. Everyone. Collective responsibility. So any decision that is made in Cabinet is by all Members of Cabinet. And the Ministerial Code of Conduct says that if you do not agree as a Minister, you must do what?

Some Hon. Members: Resign.

Hon. Zane J. S. De Silva: Resign.

I did not hear of any resignation.

An Hon. Member: Not one.

Hon. Zane J. S. De Silva: So it is my . . . I contend, Mr. Speaker, that everyone in that Cabinet agreed to this court case, agreed to this witch hunt.

Now, the Honourable former Attorney General also said "[I] acted on the basis of legal advice and in the best interests of the community." Acted on the basis of legal advice.

Now, I am not a lawyer, but I certainly listened intently to Minister Caines and Minister Scott this evening. And I have had a little experience with lawyers, Mr. Speaker, certainly paid enough. Yep, certainly paid enough.

Now, Mr. Speaker, what boggles my mind is that normally when you have a case, certainly of this magnitude, I would have thought that the Attorney General, whoever it may be, rather than relying on a friend who only had three years' experience, he would go out for and obtain it. I mean, a totally outside of the box, outside of [his] political friendships, and get an opinion, because he spent a million dollars and we lost . . . we failed at the first hurdle. At the first hurdle! The taxpayers of this country paid a million dollars. But, the Attorney General . . . maybe he will talk tonight. But he said he took legal advice. Maybe he will tell us who the legal advice was from.

He finishes his speech this morning, "In addition, the allegation that I have seen former Member's bank accounts or other personal files is absurd and untrue."

Well, if that is the case, how did Dr. Brown's bank accounts and his mortgage payments and all of his MRI fees, all the income from CT scans . . . where did he get it? The one million dollar question—no pun intended.

[Laughter]

Hon. Zane J. S. De Silva: Mr. Speaker, it is clear, unless that Honourable Member gets up tonight and tells the people of this country where he got that information from, that we have seen an abuse of power. We have seen a serious abuse of power.

Where did he get the information from?

Did he break the law?

[Inaudible interjection]

An Hon. Member: Mr. Speaker, this is getting personal.

Hon. Zane J. S. De Silva: No, it's not. No it's not. I know my line and length. I know my line and length very well.

Mr. Speaker—

Hon. Dr. E. Grant Gibbons: Point of order, Mr. Speaker.

The Speaker: Go ahead.

POINT OF ORDER
[Imputing improper motive]

Hon. Dr. E. Grant Gibbons: I am sitting here listening very patiently. The Honourable Member clearly is imputing improper motives. He is suggesting illegal activity.

Hon. Zane J. S. De Silva: Well, Mr. Speaker, I tell you what, I tell you what . . . I will tell you what—

The Speaker: You know the House is not on—

Hon. Zane J. S. De Silva: Got it; got it, Mr. Speaker.

The Speaker: And I think last week you were very good. Monday evening you were very good. You stayed off for two nights. Just go back thick ice.

Hon. Zane J. S. De Silva: Mr. Speaker, I did not make a statement. And I have been asking, as everyone has been doing for the last three weeks in this

House . . . we are asking the question. And I am not a lawyer. Were any laws broken? That is the question. Maybe the Honourable former Attorney General can get up—at least he is here tonight—because it is certainly my understanding that you should not be able to get any information without having permission from the court.

Mr. Speaker, so the question (maybe we will find out tonight), is, Has the former Attorney General received an opinion? And, you know what? That is a no-win situation, and I will tell you why. Because if he got an opinion, then we would have known about it. And if he got an opinion and we lost on a technicality, or whatever he says, at the very first hurdle, we need to know who he got the opinion from so we can sue them. Maybe we will find out it is Richard Ambrosio who gave him his advice.

And, the thing is, if he did not get an opinion, guess what, Mr. Speaker? That means he is negligent.

Was the OBA Cabinet aware of any opinions? Or was it like the airport, when everyone gets told about it after the deal is done?

[Inaudible interjection]

Hon. Zane J. S. De Silva: That is very true.

My colleague, Rolf Commissiong, says, you know, good patients get second opinions. Sometimes we get third opinions, too. But when one has a clear-cut vision as to what he wants to do, he does not waste time on opinions.

So, I said just now, did he get an opinion, or was this like the airport?

How much time do I have left, Mr. Speaker, please?

The Speaker: Thirty-five seconds.

Hon. Zane J. S. De Silva: Thirty-five seconds, Mr. Speaker! What?

Well, I tell you what. Let me read something from Hansard for you, Mr. Speaker, on my way out. The Honourable Member said, and I will quote (in response to a third parliamentary question) "[6]. . . who are the attorneys for Bermuda instructing the Boston law firm of Cooley LLP?"

Mr. Moniz replied, ". . . it is myself, Mr. Speaker." [He] was instructing Cooley.

Some Hon. Members: Aah!

Hon. Zane J. S. De Silva: *I myself.*

So, Mr. Speaker, I will finish on this note. Where is the information coming from, former Attorney General? Where?

The Speaker: Thank you, Honourable Member.

Does any other Member wish to speak?

Premier?

Hon. E. David Burt: Mr. Speaker, it seems as though we have had five speakers from this side, and no one on the One Bermuda Alliance wants to get up and defend the actions of their former Attorney General

[Inaudible interjections]

Hon. E. David Burt: And I see the former Attorney General is leaving the Chamber.

And Mr. Speaker, if the former Attorney General wishes to speak I am happy to yield, Mr. Speaker. I am happy to yield if he will take to his feet, Mr. Speaker. I will yield, Mr. Speaker.

Hon. Trevor G. Moniz: Thank you, Mr. Speaker.

The Premier jumped up so quickly, he got in front of me there. He was very, very quick to jump up.

Mr. Speaker, we face a lot of challenges in our small Island. The country will be aware that we face very important challenges with health costs, we have ballooning health costs. We have had particular areas of problems with scams. We have had geometric increases over a period of time when the PLP were running the country. And we also, during that period of time, had problems with alleged corrupt practices.

Now, if it were me

The Speaker: I am going to advise, like I advised everybody—

[Inaudible interjections and general uproar]

Hon. Trevor G. Moniz: I am going no further than that, Mr. Speaker.

The Speaker: I am going to advise like I advised everybody else, keep it on a certain level—

Hon. Trevor G. Moniz: I am going no further than that.

The Speaker: —line and length.

Hon. Trevor G. Moniz: But, you know, I would have thought that the Government would be concerned with upholding the standards of transparency and good governance in Bermuda. This is a time when we are going through all sorts of anti-corruption measures, we are going through the OECD's assessments, we are going through FATF's assessments for corruption, anti-money laundering, all of this sort of stuff. And you would have thought that this Government would have wanted to prove that it was strong on crime.

[Inaudible interjection]

[6] *Official Hansard Report*, 10 March 2017, p. 1006

The Speaker: Ah, ah, ah, Member. Member.

Hon. Trevor G. Moniz: You would have thought that the wanted to prove that they are strong on crime.

[Inaudible interjection]

Hon. Trevor G. Moniz: But instead of that, they run and hide.

And the questions I get are, *Oh, well, did you dot your i's did you cross your t's?* You know there is practice when you are a magician. Yes, there is a practice when you are a magician, and I see it in the Opposition . . . the Government, those Members opposing me . . . I see the . . . other than the ones who are clearly going for the award of Oscars, some of them in the comedy section, but some in the drama section, some in melodrama. It is a practice when you are a magician . . . you don't want people see what you are doing with your right hand, so you are doing something over here in this direction with your left hand.

And that is what these Members are doing. They are coming to me saying, *Oh well . . .* You know, one week they say, *Oh well, did you do this?* And then you give them an answer. And next week it's *Oh, did you do that? Did you do this? Did you do that?* Well, of course, what they are trying to do is mis-direction over the mis-deeds that they are not tracking.

The Honourable Member said he has the complaint. The complaint, if you read it, talks about contracts that were held between Lahey and Dr. Brown. It shows emails, et cetera. But, you know, if it hasn't come along a situation where someone has said, *Well, these facts are false.* What they are saying is, *How did you catch us? How did you find out what we were doing? How did you get the evidence that we were doing something wrong? How did you find out?*

Hon. Zane J. S. De Silva: Point of order, Mr. Speaker.

The Speaker: Point of order.

POINT OF ORDER
[Imputing improper motives]

Hon. Zane J. S. De Silva: No one ever made that statement on this side of the House, ever. That is strictly imputing improper motives.

The Speaker: Continue on.

Hon. Trevor G. Moniz: Thank you.

Well that is . . . you know, with my respect, that is exactly the same as saying, *How did you get this information?* Not saying if the information is correct.

Hon. Wayne Caines: Point of order.

POINT OF ORDER

Hon. Wayne Caines: The legal allegation that he determined legally is that he acted *ultra vires*, that he acted without the authorisation in law. That is the premise on which we have spoken—that he acted without the authority in law.

The Speaker: Thank you, Member.

Hon. Trevor G. Moniz: Well, with all due respect, there were Members asking *How did you get this information?* It may not have been that Member. But what they should be concerned with is the substance of the allegation. So let's go back to that and see what you can prove on that.

I did not do anything unlawful. I gave a full statement today. I explained . . . the MLAT [Mutual Legal Assistance Treaty] was the big thing last week, the letter on the MLAT. The Premier was jumping up and down and quoting from that. And, of course, we found out that that all came to nothing. So now they want to go off on another—

Hon. E. David Burt: Mr. Speaker.

The Speaker: We have a point of order.

Hon. E. David Burt: Point of order, Mr. Speaker.

POINT OF ORDER
[Misleading]

Hon. E. David Burt: The Honourable Member is misleading the House. And the reason why he is misleading the House is he just told this House that he did nothing unlawful. However, Mr. Speaker, I have it on information that the Honourable former Attorney General got information illegally from government files without a court order. That is the challenge, Mr. Speaker.

An Hon. Member: Whoa!

Hon. E. David Burt: That is the challenge, Mr. Speaker. He is misleading the House because he conducted himself unlawfully.

The Speaker: As I have tried to say for the last couple of evenings, let's try to make it factual. If there are allegations they should be supported.

Hon. Trevor G. Moniz: Mr. Speaker, I would say again that that allegation is not correct.

Mr. Speaker, there is nothing more I can add to that, I would thank you.

The Speaker: Caught me off guard.

I wasn't expecting you to finish. But you did. Mr. Premier.

Hon. E. David Burt: Mr. Speaker.

The Speaker: Would you like to take your time now?

Hon. E. David Burt: I would like to take my 20 minutes now, if I could, Mr. Speaker.

The Speaker: I think we can arrange that. I will reset the clock.

Hon. E. David Burt: Mr. Speaker, as I said when I began, the former Attorney General just got up and gave us a poor excuse for his illegal activity in the action of the Office of Attorney General. And the fact is, Mr. Speaker, that before I begin, I think it is very important, because while we are here discussing very important matters of abuse of power of high office of state, there are two families that are mourning, Mr. Speaker. So I would like to extend condolences on behalf of all Honourable Members to the families of the two persons who passed recently in a road traffic accident, recognising the fact that we do have a lot of work to do on that particular issue. And we will be discussing that in our next session.

That much being said, Mr. Speaker, and I am happy that the former Opposition Leader has returned to her seat, the Honourable Patricia Gordon-Pamplin, because she gave an interview to a media organisation today and she said, and I quote, Mr. Speaker, "Like it or not I really don't care what people think about me but I can tell you that I will always stand with my integrity and I will always stand on principle." End quote.

Mr. Speaker, the question that I have for that Honourable Member is whether or not she will stand on principle and ask her former Attorney General to resign after my presentation today, Mr. Speaker. Because it is very simple, at issue, Mr. Speaker, is, Did the former Attorney General abuse his powers under the law? Did he?

That is the only question that should be asked, because as much as this wonderful former Attorney General wants to talk about information that may or may not exist, the fact is that we have this thing called a constitution. We have this thing called rule of law. And you cannot get up and wax lyrically about AML and ATF and international standards if, when you are in the highest legal office in the land, you don't feel like following those standards, Mr. Speaker.

An Hon. Member: Ooh!

[Desk thumping]

Hon. E. David Burt: You don't get to pick and choose when you follow the standards.

The Speaker: Honourable Members. Members!

Hon. E. David Burt: Now, Mr. Speaker, there is an old common law affect. And it is called "misconduct in public office." And it goes back to a 13th century of English law. And it is what happens when people abuse their power, Mr. Speaker. And let me tell you what it contains.

It contains a public officer who is acting in his role as a public officer who wilfully neglects to perform his duty or wilfully misconducts himself to such a degree to amount to the abuse of the public's trust in that office holder without reasonable excuse or justification, Mr. Speaker.

That is precisely what forms the offence of misconduct in public office. And, Mr. Speaker, I submit to you that after my presentation today, I will make it very clear that the former Attorney General abused his office and conducted misconduct there. And it is very simple—

The Speaker: Be factual.

Hon. E. David Burt: Yes, Mr. Speaker?

The Speaker: Be factual.

Hon. E. David Burt: I will, Mr. Speaker. I promise you I will keep it incredibly factual.

Because unlike the comments from the former Attorney General . . . he will not get up right now and say that he obtained a court order to access the government data of which he accessed, Mr. Speaker. And if he does, I am happy to yield. By the fact that he is sitting in his seat silent, Mr. Speaker, he broke the law, Mr. Speaker.

The Speaker: Ah, a point of order? We will take your point of order.

POINT OF ORDER
[Misleading]

Hon. Trevor G. Moniz: The Honourable Member is misleading the House. That is not the case.

The Speaker: I cautioned you to be factual. So, I am just going to caution you again. Be factual.

Hon. E. David Burt: Mr. Speaker, I am very happy to remain factual, because I will refer to the Proceeds of Crime Act, section 40, which was read by Honourable Members earlier. And it speaks about disclosure of government information in a civil recovery case. And I will read it for you, Mr. Speaker, so everybody can hear it.

[Inaudible interjections and general uproar]

The Speaker: Members! Members! If you want me to hear him, I need to have a quiet room so I can listen to the Member.

Hon. E. David Burt: Thank you, Mr. Speaker.

It says, "Disclosure of information by Government Departments"

"[40 (1)] Subject to subsection (4), the Supreme Court may, on an application by the Director of Public Prosecutions, or the Attorney-General in the case of a civil recovery investigation, order any material mentioned in subsection (3) which is in the possession of a Government Department to be produced to the court within such period as the court may specify."

The only method, legal method, for an Attorney General to obtain government files in the pursuit of a civil recovery investigation is under section 40 of the Proceeds of Crime Act, Mr. Speaker. And the former Attorney General did not do that, Mr. Speaker. He has broken the law.

In the ascertaining of that information, Mr. Speaker, he quoted some random transitional provision inside of law, which you will not even find in the main Proceeds of Crime Act, Mr. Speaker. And why was he doing that, Mr. Speaker? Because he was abusing the power of which he held, Mr. Speaker. That is precisely what he did, Mr. Speaker.

[Inaudible interjections]

Hon. E. David Burt: And do you know what is interesting, Mr. Speaker? We heard the statement earlier today talking about . . . and I am going to quote from his statement, Mr. Speaker. He said, "However, let me be clear. When I was Attorney General neither I nor any lawyer on behalf of the Government of Bermuda used material from a criminal investigation to support the proceedings. Everything in the Lahey civil complaint was sourced from locally available evidence owned or maintained by the Government of Bermuda.

"In addition, the allegation that I had a former Member's bank accounts or other personal files is absurd and untrue." End quote.

Mr. Speaker, if it is absurd and untrue, how did it end up in the files of the Bermuda Government inside of the Lahey court case?

If it is absurd and untrue, did that information just appear? Where did it come from, Mr. Speaker?

I have told you, Mr. Speaker, and the Honourable House and the listening public, and the Attorney General by his silence has admitted that he did not obtain a court order to get access to this information which was done under the guise of collective responsibility of that Cabinet.

An Hon. Member: That's right!

Hon. E. David Burt: And, Mr. Speaker, after all of that, the Honourable former Attorney General will sit in his seat and mouth platitudes. He should be ashamed of himself!

An Hon. Member: Hear, hear.

Hon. E. David Burt: Because the fact is that he has dishonoured the very office of which he held.

Hon. Trevor G. Moniz: Point of order, Mr. Speaker.

The Speaker: Point of order. What is your point of order?

POINT OF ORDER

[Imputing improper motives]

Hon. Trevor G. Moniz: He is imputing improper motives here, yet again, saying I have done illegal acts. There is absolutely no proof, and I deny that to be the case. I have stated that repeatedly—

An Hon. Member: Prove it!

Hon. Trevor G. Moniz: No, no, you prove it.

Some Hon. Members: Ooh!

The Speaker: All right, Members, Members. Again, I remind you to be factual and keep it very factual on items that you can sustain the information that you are bringing to Parliament.

Hon. E. David Burt: Mr. Speaker, I thank you very much, because the question I have . . . real quick, how much time do I have left?

The Speaker: Eleven minutes.

Hon. E. David Burt: Thank you, very much, Mr. Speaker.

Because, as I said, Mr. Speaker, the issue of misconduct in public office is a serious one. And the former Attorney General existed in a high office of state. He kept his Cabinet in the dark, while he brought his former office into disrepute by his actions. He did not have any checks and balances under law in his own office. When the law required him to seek a court order, he did not seek a court order. When the law required him to make regulations, he did not make regulations. When the law required him to make guidance, he did not make guidance, Mr. Speaker. He existed as a law unto himself.

He had the power through the law, the Proceeds of Crime Act, to delegate enforcement authority. He did not delegate it to anyone. He kept that power to himself. He obtained government files unlawfully, Mr. Speaker, because he did not obtain a court order

before he got access to those government files in a civil recovery of information. And he mishandled that information because he did not have any rules by which that information could be held, Mr. Speaker, because the law states that in a civil recover investigation the only way that information can be used is in civil recovery proceedings, which means that you have to go to a court, that you have to have protection, because civil recovery is something that is serious. And it is controversial because when there is no criminality found when there is nothing done in the criminal code, there has to be protection. And the courts are there to protect against the very abuse of power that the former Attorney General executed.

But, Mr. Speaker, he ignored the courts. And he allowed his political appointee to access those same personal files that information that was restricted, that there is no basis in law whatsoever that a political appointee could have access to those files, because the only person, people, that the former Attorney General could have delegated his powers to was a public authority, Mr. Speaker. And he launched civil suit with the information that he received illegally, Mr. Speaker.

Now, as I said, Mr. Speaker, there are a number of things I can speak to in fact. The Act requires that the Attorney General appoint an enforcement authority. He did not appoint one. He acted alone and exercised that authority without the regular checks and balances which would normally be expected.

What is interesting, Mr. Speaker, is if we look at the Proceeds of Crime Act, under section 36.1Q, and I quote, it says, "Use of information by enforcement authority." It goes on to say, "Information obtained by or on behalf of the enforcement authority in connection with the exercise of any of the authority's functions may only be used by the authority in connection with the exercise of [its] functions under this Part."

So what that means is that you can only launch action under this particular section of law of where you gain this information.

So now, Mr. Speaker, not only did the former Attorney General gain information contrary to law, he also used the information of which he gained contrary to law, Mr. Speaker, because the only way of which he could have done it was through a civil recovery proceeding. And that would have been here in Bermuda, or he could have filed an external one underneath our Mutual Legal Assistance Treaty, Mr. Speaker. But he did not.

What he chose to do was to launch a civil suit in the United States where he could plaster people's private information—of which he obtained illegally, Mr. Speaker—so he could try people in the court of public opinion. It is the very essence of abuse of power, Mr. Speaker. It is the very essence of why we have a constitution. It is the very essence of why we have due protection. It is the very essence of why we have due process, Mr. Speaker. But it does not matter to the former Attorney General, Mr. Speaker, because he just wanted to do what he did, and the former Cabinet just let him do whatever he wanted to do, Mr. Speaker.

I will go to another section of law, Mr. Speaker, which states, "Disclosure of information to enforcement authority." Mr. Speaker, the Proceeds of Crime Act allows the Attorney General . . . or, sorry, the enforcement authority . . . and seeing that he did not give it to an authority, like the Financial Intelligence Agency or something else, he kept the power for himself. It allowed information which is held on behalf of a police officer to be disclosed to the enforcement authority for the purpose of the exercise by the enforcement authority of its functions under the function of this part.

Again, Mr. Speaker, the information that the former Attorney General was able to get from the police which was clearly criminal information—

Hon. Trevor G. Moniz: Point of order.

The Speaker: State your point of order.

POINT OF ORDER
[Misleading]

Hon. Trevor G. Moniz: This Member is again and again and repeatedly misleading the House. That is not the case. I have said that is not the case repeatedly.

The Speaker: Be mindful of what is—

Hon. E. David Burt: Mr. Speaker—

The Speaker: —stated in his statement.

Hon. E. David Burt: —I will be completely and perfectly mindful.

The Speaker: Yes.

Hon. E. David Burt: But I will tell the House, and the former Attorney General can deny it as much as he wants. He knows that he gave his private lawyers access to Bermuda Police Service investigators. He knows that that information was used to file civil suits. He knows and understands that Cooley was given information that they should not have had access to. He knows that, Mr. Speaker.

And do you know what is even worse, Mr. Speaker? That he would rise on a point of order when he knows that I know it!

[Inaudible interjections]

Hon. E. David Burt: But I will go on in this section, Mr. Speaker, because it says, [section 31.Q(3), "The Minister, after consultation with such persons as may be appropriate, shall produce Guidance for the purposes of this section and such Guidance shall specify the information to be disclosed, the manner in which, and any conditions subject to which, it is to be disclosed."

But guess what, Mr. Speaker? No guidance was issued. So we have an Attorney General that gets information contrary to the law, Mr. Speaker, that uses information contrary to the law, that sets no barriers on how that information is used, and then will come to this House and have the temerity to tell us that he did everything under the law, Mr. Speaker.

Hon. Jeanne J. Atherden: Point of order.

The Speaker: What is your point of order?

POINT OF ORDER

Hon. Jeanne J. Atherden: If I remember clearly, I am sure you said to everyone who would speak that they should be saying something that they can prove and state. I don't believe that Member can say that.

Hon. E. David Burt: Mr. Speaker, allow me to state for the record the request from the former Attorney General to the Information Technology Office asking for the information, Mr. Speaker.

Some Hon. Members: Ooh!

Hon. E. David Burt: And what the former Attorney General said is, "Pursuant to section 26 of the Proceeds of Crime Amendment Act, I am to exercise the powers and perform the functions of the enforcement authority for the purposes of civil recovery proceedings issued under section 3A of the Proceeds of Crime Act. For your information, the provision is as follows . . ." and he does refer to a transitional clause which is not even in the Act, Mr. Speaker.

He then goes to compel public officers to hand over terabytes of data without a court order, Mr. Speaker.

[Desk thumping and general uproar]

The Speaker: Members! Members! Members.

Hon. E. David Burt: Mr. Speaker.

The Speaker: I would also actually caution you if you can have that and table it here for us.

Hon. E. David Burt: I will be perfectly happy to give that to you, Mr. Speaker.

The Speaker: You can table it . . . you can table it.

Hon. E. David Burt: Mr. Speaker, as an Honourable Member I will never, ever, ever, mislead this House, Mr. Speaker. I will go from the information of which we have. And the facts are, Mr. Speaker, that the former Attorney General abused his power. He abused his office. And I sincerely hope that the members of the Bermuda Police Service that are listening, the members of the DPP that are listening, and the persons in Government House, and our newly appointed Deputy Governor will launch an investigations into the abuse of power by the former Attorney General. Thank you, Mr. Speaker.

[Desk thumping and general uproar]

ANNOUNCEMENTS BY THE SPEAKER

APOLOGIES

The Speaker: Members, Members, that brings us to the close of this evening, and also to the close of this session.

I would like to remind you that we will recess now until the 13th of April. And before I do close, there were two Members who actually did give indication that they would be absent today, and I did not read that earlier, so I would like to do that [now]: Member Famous indicated that he would be overseas for a funeral, and Member Baron did indicate that he would be out for medical treatment today.

STANDING ORDER 11(5)—MEMBERS' CONDUCT ATTENDANCE

The Speaker: With that, Members, enjoy your time away. And on that same note, I would ask Members to reflect on Standing Order 11(5), and I am going to read it: "(5)(i) Every Member is bound to attend the meetings of the House and its committees, unless notice of leave of absence has been given, in advance and in writing, to the Speaker."

What that means is that, Members, if you serve on committees I expect you to participate in those committees. It has been brought to my attention that Members have not had a good record of attendance on committees. That is not acceptable; just like your non-attendance at this House is not acceptable. I ask all Members to reflect on that during this time that they are away from here, and those who this matter addresses please do something about that.

Thank you, and enjoy your recess.

[At 11:35 pm, the House stood adjourned until 10:00 am, Friday, 13 April 2018.]