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BERMUDA
HOUSE OF ASSEMBLY

OFFICIAL HANSARD REPORT

21 November 2016
Sitting number 3 of the 2016/17 Session
(pages 133–270)

Hon. K. H. Randolph Horton, JP, MP
Speaker

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BERMUDA HOUSE OF ASSEMBLY**OFFICIAL HANSARD REPORT****21 NOVEMBER 2016****10:00 AM***Sitting Number 3 of the 2016/17 Session**[Hon. K. H. Randolph Horton, Speaker, in the Chair]***PRAYERS***[Prayers read by Hon. K. H. Randolph Horton, Speaker]***CONFIRMATION OF MINUTES****14 November 2016**

The Speaker: Honourable Members, we have had the Minutes for the 14th of November distributed. And if there are no objections or need for corrections, those Minutes will be confirmed. Any objections; any corrections?

Since there are none, the Minutes of the 14th of November are confirmed.

*[Minutes of 14 November 2016 confirmed]***MESSAGES FROM THE GOVERNOR**

The Speaker: There are none.

**ANNOUNCEMENTS BY THE SPEAKER
OR MEMBER PRESIDING****APOLOGIES**

The Speaker: Yes. First, I would like to inform Members that Members N. Outerbridge, the Government Whip, and Member D. V. S. Rabain will be, are in fact presently, attending the 65th Westminster Seminar in London. And additionally Ms. Wolfe, I believe, Jamahl Simmons . . .

The Clerk: I beg your pardon?
Yes.

The Speaker: And the Honourable Member, Jamahl Simmons, is attending the CPA [Commonwealth Parliamentary Association] meeting in Trinidad.

The Clerk: The World Trade Organization.

The Speaker: Trinidad and Tobago.

PUBLIC ACCOUNTS COMMITTEE

The Speaker: I would also like to announce some changes in committees. First, with reference to the Public Accounts Committee, I would like to inform the House that the Honourable Wayne Furbert from constituency 6 will assume the responsibility of Chairman of the Public Accounts Committee. And the Honourable Member from constituency 16, M. A. Weeks, will become a member of that committee.

REGISTER OF INTERESTS COMMITTEE

The Speaker: Finally, in the [Register of] Members' Interest Committee, Senator Renee Ming will replace the former Senator, Marc Daniels.

MESSAGES FROM THE SENATE

The Speaker: There are no messages from the Senate.

**PAPERS AND OTHER
COMMUNICATIONS TO THE HOUSE**

The Speaker: The Chair will first recognise the Minister for Health. Minister Jeanne Atherden, you have the floor.

**BERMUDA HEALTH COUNCIL (HEALTH SERVICE
PROVIDERS) (LICENSING) REGULATIONS 2016**

Hon. Jeanne J. Atherden: Mr. Speaker, I have the honour to attach and submit for the consideration of the Honourable House of Assembly the Bermuda Health Council (Health Service Providers) (Licensing) Regulations 2016, proposed to be made by the Minister responsible for Health in exercise of the power conferred by section 15 of the Bermuda Health Council Act 2004.

Thank you.

The Speaker: Thank you, Minister. Do you have a second?

**BERMUDA HEALTH COUNCIL (HEALTH SERVICE
PROVIDERS) (LICENSING) REGULATIONS 2016**

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

Mr. Speaker, I have the honour to attach and submit for the consideration of the Honourable House of Assembly the Bermuda Health Council (Health Ser-

vice Providers) (Licensing) Regulations 2016, proposed to be made by the Minister responsible for Health in exercise of the powers conferred by section 15 of the Bermuda Health Council Act 2004. *[Sic]*

The Speaker: All right. Thank you, Minister.

The Chair will now recognise the Honourable Minister for Education, Minister Wayne Scott.

Hon. R. Wayne Scott: Thank you, Mr. Speaker. Good morning.

The Speaker: Good morning.

BERMUDA COLLEGE 2015/16 ANNUAL REPORT

Hon. R. Wayne Scott: I have the honour to attach for this Honourable House the Annual Report for the Bermuda College 2015/16.

The Speaker: Thank you, Minister.

PETITIONS

The Speaker: There are none.

STATEMENTS BY MINISTERS AND JUNIOR MINISTERS

The Speaker: The Chair will first recognise the Honourable Premier.

Hon. Michael H. Dunkley: Good morning, Mr. Speaker; good morning, colleagues.

The Speaker: Good morning.

UK WITHDRAWAL FROM THE EUROPEAN UNION—UPDATE

Hon. Michael H. Dunkley: Mr. Speaker, I rise today to update this Honourable House on the Government's engagement regarding the [UK's withdrawal from the European Union \[EU\]](#). This follows my last update on the 15th of July in these Honourable Chambers.

Mr. Speaker, as Members of this Honourable House know, earlier this month I attended the Joint Ministerial Council in London, together with elected leaders and representatives of the Overseas Territories. The primary issue on the table for every territory was to understand the impact of Brexit on all of us.

During my bilateral with the Right Honourable Baroness Anelay, Minister of State for Overseas Territories, I was assured of the UK's commitment to work alongside this Government to ensure that our economic sustainability is upheld as they negotiate the UK's withdrawal from the EU. The Bermuda public

can be assured that this is also the Government's primary objective, along with upholding our global reputation and relationships with our European partners. Another key area of concern, Mr. Speaker, is the ability of British Overseas Territory citizen passport holders to continue to enjoy free movement throughout the Schengen area. This Government has expressed our concern in this regard to the UK Government, and we will continue to work closely with them to preserve the access that we currently enjoy.

Mr. Speaker, the Minister for the Department for Exiting the European Union attended the Ministerial Council meetings to discuss the challenges and opportunities for the Overseas Territories following the UK's decision to exit the EU. The UK Government is clear that the referendum result does not change the UK Government's relationship with its territories.

Together, we reaffirmed that while the UK remains a member of the EU, current EU funding arrangements under the Overseas Association Decision [OAD] continue unchanged, and clarified that, where territories are eligible for EU funds that have been covered by assurances from Her Majesty's Treasury, those guarantees will extend to the Territories.

Mr. Speaker, the UK Government is committed to involving Overseas Territories, in accordance with various constitutional relationships, as it prepares for negotiations to leave the EU. This will ensure that our priorities are taken into account.

To this end, UK Ministers and Leaders of the Overseas Territories committed to taking forward future engagement through the creation of a UK Overseas Territories Joint Ministerial Council on European Negotiations [JMC-EN]. The first meeting will take place early in the New Year. Mr. Speaker, the JMC-EN is under the responsibility of the Department for Exiting the European Union and will be chaired by Minister Robin Walker. Under JMC-EN, our objective will be to develop an approach to, and objectives for, the Overseas Territories to inform the UK's Article 50 negotiations. We will seek equality with the commitment made by the UK to Scotland, Northern Ireland, and Wales. The public can be assured, therefore, that this Government has been and will continue to be at the forefront of discussions with the UK Government on Brexit.

Mr. Speaker, the Government is aware of the UK's successful efforts at a recent meeting of the EU Economic and Finance Council to support the removal of low or no income tax as a criterion for EU blacklisting. The Government has an active, direct engagement [strategy] in Brussels, through the good work of the Deputy Premier and Minister of Finance, the Honourable E. T. (Bob) Richards, who has visited with the Secretary General and Senior European Commission officials to promote a better understanding of Bermuda's business model in the provision of international financial services. We have consistently emphasised

that our model adds value and stability to the global financial system.

Our team has continuously emphasised to OECD and European Commission officials that Bermuda's omission from the Panama Papers discussions is a reflection of the effectiveness of our central register on ultimate beneficial ownership, held with the Bermuda Monetary Authority, which we have maintained for over 70 years. Bermuda's sterling reputation serves us well as we continue our bilateral engagement with officials in Brussels.

Mr. Speaker, I understand some of our fellow leaders have made comments in the media suggesting that UK Overseas Territories fear that Britain's loss of influence in the EU as a result of the Brexit vote will leave them exposed to tougher offshore tax rules imposed by Brussels. This does not concern Bermuda, Mr. Speaker; we have consistently had direct engagement in Brussels and other EU nations on a bilateral basis. In some cases there has been assistance from the UK Government, but for the most part, Bermuda has defended itself well in the battles and developed a unique skill in highlighting our valued economic contribution to the global economy.

Mr. Speaker, on the date of the withdrawal from the European Union, Britain will be looking to the wider world to establish future trade and investment arrangements. The UK Government and the Overseas Territories have shared an ambition for a new UK-OT economic partnership, one that includes the Overseas Territories in future UK bilateral investment treaties.

We are confident that the relationship between Bermuda and the UK is stronger than ever. We have a dedicated Minister of State for Overseas Territories, along with a Prime Minister who is ready to ensure the greatest consultation with Overseas Territories within the EU negotiation process.

Mr. Speaker, in conclusion, although as British Nationals, Bermudians were not afforded the opportunity to be part of the EU Referendum, we respect the decision of the British people. I will not pre-empt the decisions that are to come out of the EU negotiations, but I can assure this Honourable House that Bermuda will engage with the UK Government at the highest political level to ensure the interests of this country are well represented.

Thank you, Mr. Speaker.

The Speaker: Thank you very much, Premier.

The Chair will now recognise the Honourable Minister of Education. Minister Wayne Scott, you have the floor.

BERMUDA COLLEGE ANNUAL REPORT 2015/16

Hon. R. Wayne Scott: Mr. Speaker, this morning I am pleased to have laid the [2015/16 Annual Report](#) as required by the Bermuda College Act 1974. While this is an important exercise in accountability, it is also an

opportunity to share with Honourable Members the continued progress that Bermuda College is making. Under the Bermuda College Act, its board of governors provides general management and administrative leadership to the college. The president and staff of the college are responsible for bringing the goals, direction, and policies of the board into action. These undertakings are reflected in the Annual Report and will be supported by the 2015/16 Audited Financial Statement once completed by the Office of the Auditor General, and which will be tabled at a later date. Currently, the Auditor General is completing the 2014/15 statement.

Mr. Speaker, the Bermuda College takes pride in its vision of being recognised both locally and internationally as a centre for excellence as it continues to respond to the diverse needs of the Bermuda community. One of the more significant events for Bermuda College during this reporting period was the news of the success of its reaccreditation application. Not only was the college reaccredited by the New England Association of Schools and Colleges, Commission on Institutions of Higher Education, but it was awarded the maximum time of 10 years. The next comprehensive report is not due until 2025. Well done!

Mr. Speaker, the college continues to make strides in planting new seeds of pathways that lead to fruitful outcomes. It was pleased to congratulate the first graduate of the Masters of Education in Special Education from Miami University. In addition, four students completed the University of West Indies post-graduate diploma in Education and Science. The first cohort of 18 participants from the StreetWise MBA programme, in partnership with Boston University, graduated. And the college was very pleased to graduate its first cohort of eight nursing students from the Associate of Science in Nursing Programme. Let me pause to take this opportunity to congratulate the first two graduates from the nursing programme, Ms. Josephine Bean and Ms. Deshunte Furbert, for successfully passing the NCLEX nursing [licensure] examinations. They are now registered nurses.

The new certificate programme, Certificate in Applied Technology, designed as a dual-enrolment option for high school students, was developed for a fall 2016 start date. This unique programme provides high school students with the technical fundamentals to further pursue a technical career or degree, and allows students to enhance their math, science, communication and computer skills while exploring the various technical disciplines. Students will select elective courses in the second year from a technical discipline of their choice.

Mr. Speaker, the Department of Technical Education at Bermuda College hosted two local home schools, the Learning Express Academy and Chatmore Preparatory School, for 90-minute weekly class sessions for two semesters. The two classes of 18

students were engaged in interactive learning exercises, a blended STEM topic. The final project was to build an aquatic robot to compete in the Bermuda Underwater Remotely Operated Vehicle competition, sponsored by the Bermuda Institute of Oceanic Sciences. One of the teams earned second place out of a very competitive pool of 25 teams.

Improving the college's technology system garnered considerable attention from the IT Department and affected staff, with the implementation of a new student information system, Campus Nexus, and the finance and human resource system, Great Plains. These address critical areas of data validation, portal access, integration with third-party software, and student cost billing. All employees will also be required to undergo self-phased modules on cybersecurity to guard the college against deliberate or unintentional cyberattacks.

Mr. Speaker, Bermuda College continues the steady implementation of its strategic plan. During this reporting period, the following strategies have been accomplished or are well in progress. These include, but are not limited to:

- participating with the African Diaspora's Consortium Globalisation Student Exchange Programme for BC [Bermuda College] students to become involved in the inaugural programme beginning in September 2017;
- completion of the recommendations coming out of the internal audit;
- engagement in community activities such as the Appleby Marathon [Half] Derby, Relay for Life, Heroes Weekend and other activities;
- completion of an articulation agreement with the Savannah College of Art and Design;
- continue to implement action items in the five-year academic plan and the Success and Retention Plan;
- addition of SMART boards in more classrooms;
- insulation of energy audit metering and monitoring equipment;
- establishment of a college testing centre; and
- the completion of the 2012, 2013 and 2014 Audited Financial Statements.

In closing, Mr. Speaker, I want to emphasise how proud we all should be of the good work that is being carried out at the Bermuda College by staff and faculty. I have only highlighted some of the achievements of the college during the 2015/16 school year, but encourage the general public to read through the Annual Report, pick up the course directory and experience what the college is offering us as a community. Thank you, Bermuda College, for setting our students on their path to success.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister.

REPORTS OF COMMITTEES

The Speaker: There are no reports of committees.

QUESTION PERIOD

The Speaker: We now move to the question period.

[Pause]

The Speaker: The Chair will recognise the Honourable Member from constituency 17. MP Walton Brown, you have the floor.

QUESTION 1: UK WITHDRAWAL FROM THE EUROPEAN UNION—UPDATE

Mr. Walton Brown: Thank you, Mr. Speaker, and good morning, colleagues.

Mr. Speaker, the Honourable Premier in his Statement, a very helpful statement, spoke about the primary objective of the discussions with the UK involving Brexit, that it has to do with the economic sustainability of Bermuda. My question for the Honourable Premier is, Given that there are many Bermudians living in the UK, as well as the European Union, who have a much broader set of concerns about Brexit—i.e., the longevity of their employment and other opportunities in the EU—would the Premier consider these matters to be of great significance as well?

The Speaker: Mr. Premier.

Hon. Michael H. Dunkley: Most certainly, Mr. Speaker. [Concerning] any items like that, we are happy to listen to any individuals. And if the Honourable Member has some concerns he would like to share, I would like to talk to him about those as well. I think we are in a similar position, but dissimilar to some extent as well. With the UK, Mr. Speaker, they are currently trying to understand the full reality of the decision and what needs to take place as they move forward. And that is why we tried to get in front of them to make sure we have open doors.

What we would like to understand in Bermuda as well is the challenges that Bermudians might face as they move forward, and the Honourable Member brought up those living in the UK and those living in Europe as well. So we have to talk directly and work together to find the best solutions to these challenges and opportunities that face us.

The Speaker: All right. Thank you, Premier.
MP Brown.

Mr. Walton Brown: Yes, follow-up question?

The Speaker: Yes, a supplementary.

SUPPLEMENTARY

Mr. Walton Brown: The British do not have a very good track record of listening to the Overseas Territories and taking their concerns to heart. And I refer in particular to the decision to withdraw our ability to issue passports. I refer to their refusal to acknowledge that Overseas Territories citizens are also UK citizens, and therefore should not have to go through the hoops to show UK citizenship from an academic standpoint. How can the Premier assure this House and the Bermudian public that he and the other Overseas Territories Ministers will get the ear of the UK Government?

The Speaker: Premier.

Hon. Michael H. Dunkley: Thank you, Mr. Speaker. I appreciate the Honourable Member's question and concerns.

This JMC was the most consultative we have had, with Ministers in attendance throughout, listening and involved in the discussion. And I think with the level of commitment that we have seen and the open commitment that the Baroness and her colleagues have expressed about moving forward, I think we are on a good wicket at this point in time. We continue to maintain that wicket, and I will keep colleagues in this Honourable Chamber and the public apprised of any changes to that. But so far, I am comfortable with the level of commitment and consultation and will hold them to it. And if that changes, you can be assured that I will update Honourable Members in that regard.

The Speaker: Thank you, Premier.

Yes. The Chair will recognise the Honourable Member from constituency 36, the Learned Member. MP Michael Scott, you have the floor with a supplementary.

SUPPLEMENTARY

Hon. Michael J. Scott: Thank you, Mr. Speaker.

Mr. Speaker, to the Premier: How can the Premier be comfortable with the levels of assurances that we can entertain from either the UK Government or the Prime Minister of that country, when it has been popularly indicated that the UK still have not made a clear plan, as you have just revealed to this House? First question.

The second question is, You say in your Statement that it is clear that the referendum . . .

The Speaker: Wait a minute, Honourable Member. You have one question at a time.

Hon. Michael J. Scott: Very well.

The Speaker: What was your question again?

Hon. Michael J. Scott: How can the Premier have comfort about the capacity of the UK to have a listening ear about critical matters impacting us when it is clear that they do not have a plan as yet about the impact of Brexit?

The Speaker: All right.
Premier.

Hon. Michael H. Dunkley: Thank you, Mr. Speaker.

Actions always speak louder than words, although the words are important. In the Statement, I did refer to a meeting that will take place early in the next year with OT leaders and with the UK Government to continue to dialogue and move this matter forward. So that commitment will be delivered at that point in time.

Now, I have also made it public on a number of occasions that while the plan for the UK moving forward is not laid out publicly, over the next few days and coming months it will be laid out. Obviously, the decision made by the people of the UK was one that caught many in the corridors of governance unaware of what was going to take place, and they had to get up to speed to see exactly what all the different people involved in this process were feeling about it. So to give them credit, they have gone out to listen to people and to formulate a plan.

So at this point in time, actions will always speak louder than words, but we are comfortable in the position we stand. And it is going to be an ongoing test for us to stay there and hold their feet to the fire. So we have the dialogue and they have the understanding of what we believe is the best way forward.

The Speaker: Thank you.

The Chair will recognise the Honourable Member from constituency 17, yes.

Mr. Walton Brown: Second question, Mr. Speaker?

The Speaker: Yes.

QUESTION 2: UK WITHDRAWAL FROM THE EUROPEAN UNION—UPDATE

Mr. Walton Brown: Mr. Speaker, I am somewhat concerned by the Premier's Statement where he refers to the ability of Bermudians, Overseas Territories citizens, to continue to enjoy free movement throughout the Schengen area. And in linking the visa-free access to the Schengen area in this Statement, the Premier is communicating a message that our access is a result of the UK connection with the European Union.

However, the Premier would know that under the change in EU policy, which granted the Overseas Territories citizens visa-free access to Schengen, it

had nothing to do with our relationship with the United Kingdom. So I am just wondering why this would be linked to our connection with the UK, when the doctrine which grants us access rightly and clearly states it has to do with our own internal conditions.

The Speaker: Premier.

Hon. Michael H. Dunkley: Thank you, Mr. Speaker.

I think the Honourable Member needs to go back and look at that part of the Statement again. And I will, for Members of the Honourable Chamber and people listening, the public, just quote that paragraph if you will allow me, Mr. Speaker.

The Speaker: Yes.

Hon. Michael H. Dunkley: I said, "Another key area of concern is the ability of British Overseas Territory Citizen passport holders to continue to enjoy free movement throughout the Schengen area. This Government has expressed our concern in this regard to the UK Government, and we will continue to work closely with them to preserve the access . . ."

That is something that I am sure is going to be coming up for discussion, because I am sure that the EU is quite disturbed with the withdrawal vote of the UK. And they are going to put everything on the table. It is up to us to protect the interests of Bermudians in every area. And this is one of the areas that has been brought to our attention very quickly. And so we will make sure that we can do all we can to ensure that that free access is maintained in the most appropriate way.

The Speaker: Yes. MP Brown. Supplementary?

Mr. Walton Brown: A supplementary.

The Speaker: Yes.

SUPPLEMENTARY

Mr. Walton Brown: So, just for clarity, would the Premier accept that it is the Bermuda Government's responsibility to lobby for the retention of that privilege as to the UK? Because the UK did not allow us to get that in the first place.

The Speaker: Premier.

Hon. Michael H. Dunkley: Mr. Speaker, and that is what we are doing.

The Speaker: Thank you, Premier.

Mr. Walton Brown: Third question.

The Speaker: Yes, MP Brown.

QUESTION 3: UK WITHDRAWAL FROM THE EUROPEAN UNION—UPDATE

Mr. Walton Brown: The third question relates to the Premier's comment that notwithstanding our relationship with the UK, the Bermuda Government continues to have bilateral talks with the European Union, and in the post-Brexit era, Bermuda will continue to have such robust bilateral discussions.

But given that the authority for us to engage in bilateral discussions is solely at the discretion of the UK, because we are a colony and we do not have access to make decisions internationally, as the Honourable Finance Minister would know, when it comes to certain contractual obligations, would the Premier accept that there could be some challenge to our ability to continue to engage in such bilateral discussions, because we require UK authority to engage in formal conclusions of discussions with outside international entities?

The Speaker: Thank you, MP Brown.
Yes, Premier.

Hon. Michael H. Dunkley: No, Mr. Speaker. And if there is anything that comes up, we will work through it.

The Speaker: All right. Thank you, Minister.
Is that it, MP Brown? Thank you.

We now move to the second Statement, which was the Statement by the Minister of Education, Minister Wayne Scott. And the Chair will recognise the Shadow Minister of Education, MP Foggo.

QUESTION 1: BERMUDA COLLEGE ANNUAL REPORT 2015/16

Ms. Lovitta F. Foggo: Yes, thank you, Mr. Speaker.

First of all, let me once again congratulate the Bermuda College on receiving its 10-year accreditation. But going through the Statement, what comes forward are attendant issues related to the Statement. Mr. Speaker, the first question for the Honourable Minister would be this: Given, basically when you look overseas and the impact of technology and globalisation, what is the college doing in terms of developing online programmes which would make it remain competitive with like institutions, because we want to make certain that our college remains a viable option and that we can have programmes that (I suppose, if you will) keep the money in-house?

The Speaker: Thank you. Thank you.
Minister.

Hon. R. Wayne Scott: Yes, thank you, Mr. Speaker. It is a very good question. That is one of the reasons

why the decision was made to maintain Bermuda College as a two-year college with articulation agreements with other institutions; the same sort of thing happens with online programmes. There is some work currently being done to work in conjunction within some of those articulation agreements, to offer online scheduling and programming. And there are some that are available now. But this is work that is actively being worked on.

And I agree with that Member that it is very important that we keep up our technology because we want Bermuda College to be a viable option to allow students to stay here in Bermuda and get qualified, accredited higher education.

The Speaker: Thank you.

Yes, MP Foggo.

Ms. Lovitta F. Foggo: Thank you, Mr. Speaker.
And my second question is this.

The Speaker: Yes.

QUESTION 2: BERMUDA COLLEGE ANNUAL REPORT 2015/16

Ms. Lovitta F. Foggo: Has the college itself, in conjunction with the Ministry, developed a register which reflects the demand of the job markets so that it can better provide direction for the students to ensure their future marketability within our workforce?

The Speaker: Minister.

Hon. R. Wayne Scott: Yes, and that is being worked on as well. And that actually goes a little bit further. Because it is not just having the conversations with employers to ensure that we are on the right track, but if you remember years ago, the Department of Education even used to track where students were abroad, what they were studying abroad, and then connecting students with employers. And this is something that kind of went away over the last decade or two. And it is very important that we get that back on as well. So we are looking at ways of how to facilitate that, because you raised some very good points. This is important. And it is in the best interests of our students that we effectively do this.

The Speaker: All right. Thank you, Minister.

Yes, is that it?

All right. The Chair will now recognise the Honourable Member from constituency 29, MP Zane De Silva.

QUESTION 1: BERMUDA COLLEGE ANNUAL REPORT 2015/16

Hon. Zane J. S. De Silva: Thank you, Mr. Speaker.

Minister, on your second page, the penultimate paragraph, you stated a “new certificate programme, Certificate in Applied Technology, designed as a dual-enrolment option for high school students, . . . developed for a fall 2016 start date.” Was this actually started this year? And the Minister is saying yes, it was started.

Okay. And the question is, because you do say at the bottom that “Students will select elective courses in the second year from a technical discipline of their choice,” is this provided free of charge?

The Speaker: Minister?

Hon. R. Wayne Scott: Yes. The dual-enrolment programme does not have a cost for students. And it has been very beneficial. For the first instances of dual-enrolment, of course, we know we had high school students graduate last year with associate degrees before they had actually even graduated from Cedar-Bridge and Berkeley. We keep talking about technical education, and actually Government is committed to move more towards that direction. And this is a good start of many different programmes of technical education that you can expect to see.

The Speaker: Thank you. Thank you, Minister.
Yes, MP De Silva again.

Hon. Zane J. S. De Silva: Second question, Mr. Speaker.

The Speaker: Yes.

QUESTION 2: BERMUDA COLLEGE ANNUAL REPORT 2015/16

Hon. Zane J. S. De Silva: Minister, on the third page when you talk about the “steady implementation of its strategic plan,” in point 1, you say that these will include partnering with the Africa Diaspora Consortium’s Globalisation Student Exchange Programme for BC students to become involved in the inaugural programme beginning summer of 2017.

You will know, Minister, that you or your Cabinet cut the funding for the African Diaspora Heritage Trail. Has there been any consideration to reinstating the funding for this particular programme? And I am talking about the African Diaspora Heritage Trail.

The Speaker: Minister.

Hon. R. Wayne Scott: Well, I think that is going a little bit off topic there. But suffice it to say, and I have said many times in this House, that the information garnered from the African Diaspora Consortium is very beneficial and is good information that is part of Bermuda’s history and needs to see continued development. There were some challenges, questions, and

concerns with regard to the charity before, and what its remit was. And I would hope that it is something that they actually look to re-evaluate.

But the bigger point is that the information that is developed with regard to Bermuda and the Diaspora is very valuable. It is very historical and needs to be explored, and it needs to continue to be part of our history.

The Speaker: All right. Thank you.
Yes.

Hon. Zane J. S. De Silva: Supplementary.

The Speaker: Yes.

SUPPLEMENTARY

Hon. Zane J. S. De Silva: Based on that, Minister, what you are saying is that . . . well, you said several things that are very important. And you said it needs to be continued. It is our history. And they need to evaluate. Can we tell the people of Bermuda that, in your upcoming budget, these monies will be put back into this very important historical programme for our people?

The Speaker: Minister.

Hon. R. Wayne Scott: Yes, Mr. Speaker, it would be irresponsible of me to outline what is going to be available for a charity that I have no control or purview over. As you know, the charity regulations have been overhauled, and there are requirements that everybody has to meet. But let us not confuse one for the other. I think those are two separate issues. And with regard to Bermuda College, what Bermuda College is doing with regard to that African Diaspora and that set of information is beneficial for our students.

The Speaker: Thank you.
Yes, MP.

Hon. Zane J. S. De Silva: Next question, Mr. Speaker.

The Speaker: Yes, your third question.

QUESTION 3: BERMUDA COLLEGE ANNUAL REPORT 2015/16

Hon. Zane J. S. De Silva: Yes. Minister, in your last paragraph, you finish by saying, "Thank you, Bermuda College, for setting our students on their path to success." I certainly agree with you there. My question is, again, the funding to give free tuition at the college was taken away from the people of this country by the OBA Government. And based on your last statement, "Thank you, Bermuda College, for setting our students

on their path to success," you know that it is successful. My question is, Will you as the Minister be looking to re-implement free tuition for our students who are in desperate need for the furthering of their education in Bermuda?

The Speaker: Yes, Minister.

Hon. R. Wayne Scott: Yes, thank you, Mr. Speaker. What that Member may not be aware of is that, although free tuition was phased out, there are a lot more scholarships that are being offered by Bermuda College. As a matter of fact, stay tuned. In the near future, we plan on looking at our old scholarship scheme as a whole to ensure that not just academic but also financial needs are taken into consideration.

The Speaker: Thank you, Honourable Member.

Thank you, Members. That concludes the Question Period, and we move now to . . .

CONGRATULATORY AND/OR OBITUARY SPEECHES

The Speaker: Thank you. The Chair will first recognise the Honourable Premier.

Hon. Michael H. Dunkley: Thank you, Mr. Speaker.

Mr. Speaker, I rise this morning on a sad note to offer, I am sure on behalf of all Honourable Members of this Chamber and Legislature, condolences to our colleague, Minister Wayne Scott, the Minister of Education, on the passing of his father, Reginald Scott, last week. Minister Scott is joined in this period of mourning by his mother and his sister, Gina.

So, Minister Scott, on behalf of all of your colleagues here, know that we all will put our political differences aside and support you during this very difficult period. May God bless and guide you and give you comfort. Thank you, my brother.

The Speaker: All right. Thank you, Premier.

The Chair will recognise the Honourable Member from constituency 5, MP D. V. Burgess.

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

First, Mr. Speaker, I would like this House to send congratulations to the mother church of African Methodist in Bermuda—that is, St. John AME Church—on celebration of their 150th anniversary.

Also, I would like to have this House send congratulations to Troika. They put on [the musical] *The Color Purple* this year. And it was an all-Bermudian cast, Mr. Speaker, and anyone who saw it—they were second to none. I have seen plays on Broadway and in London and in the United States. And I can assuredly tell you that there were none bet-

ter than this here. They were first class. I was so impressed.

Also, Mr. Speaker, on a sadder note, I would like for this House to send out condolences to the family of Ms. Viola Bailey who passed this weekend, the wife of Mr. Edmund Bailey down at Hamilton Parish. Ms. Bailey, I would say she was the light of that family. She was just a pleasant woman whom all her family loved. I am sure she will be sorely missed by all of her family—sons, daughters and grandchildren. She was really a wonderful person.

Also, Mr. Speaker, if we could send condolences out to the family of Mr. David Knight, who passed and was funeralised last weekend. Mr. Knight was a stalwart in the Salvation Army, a long-serving life member of the Salvation Army. And also, Mrs. Carolyn Young. Mrs. Carolyn Young was a long-serving member of the Bermuda Industrial Union and wife of the late Kenyetta Young, Mr. Speaker. And I would also like to be associated with the remarks concerning the father of the Honourable Member, Wayne Scott. Thank you.

The Speaker: All right. Thank you, Honourable Member.

The Chair will now recognise the Honourable Member from constituency 14, MP Glen Smith.

Mr. Glen Smith: Thank you, and good morning, Mr. Speaker.

The Speaker: Good morning.

Mr. Glen Smith: I would like to send condolences to the family of Mrs. Maureen Peckett. She succumbed to her death after a horrific traffic . . . I would like to associate Honourable Member from constituency 22, Minister Gibbons; and Minister of Education, Wayne Scott; and Minister Jeanne Atherden. Mrs. Peckett was the blood wife of Dr. Brian Peckett who, as you might well know, was the anaesthesiologist at KEMH, and the mother of Deb, Lorna, Sarah, Tim and Dr. William Peckett. Mrs. Peckett, at the age of 84, was running three miles a day. For those of you who live around either Point Finger Road or Barry Hill Road or Tee Street; that was her course, and it was just shy of three miles that she would run. And to top it off, to run up Camden North Hill is quite a feat within itself. She was also a volunteer for numerous charities, and in particular the Woman's Auxiliary at the King Edward Memorial Hospital. Thank you, Mr. Speaker.

The Speaker: Thank you very much, Honourable Member.

The Chair will now recognise the Honourable Deputy Leader of the Opposition. MP Roban, You have the floor.

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

I wish to provide a condolence and also a congrats—condolence to the family of Mrs. Carolyn Marion Young, who passed away a couple of weeks ago and was interred about two Saturdays ago at—

The Speaker: Associate with MP Burgess.

Mr. Walter H. Roban: Of course, absolutely, MP Burgess and certainly all Members on this side, because she was a stalwart of the Progressive Labour Party, a long-time employee of the Bermuda Industrial Union and a great champion of workers' rights in the hotel industry and in Bermuda in general. Her funeral was well attended by many people from across the community. She was one of the people whom I relied on greatly in my district. She was one of the grand ladies of Roberts Avenue, Devonshire, essentially the mother of Roberts Avenue for all intents and purposes. And she took care of many, gave of her heart and her pocket to those in need, and was a champion warrior for the cause of working people. She will be missed by all of us on this side and those in the Devonshire community. And I wish for condolences be sent to her family. She just happens to be the mother-in-law of our own Assistant Clerk, Mr. Randy Scott, as well.

I wish to have a congratulatory message, Mr. Speaker, sent to the Grace Methodist Church, which had a pre-event breakfast this past Saturday, which was [well] attended, and we had a great talk by Ms. Claudette Fleming from Age Concern. The church has a number of senior members, so it was a very appropriate talk. But there were slightly younger members like myself there as well. So I even found it educational for preparation as to what will ultimately come for myself and others. One point from the talk, Mr. Speaker, that was made quite clear was understanding that we all need to prepare for that time when we will be a senior and we will need to rely on others, and the preparations that we put in place to care for our benefit and welfare. That is the message that came across, and that is the message to any age, not just those who are closer to that age than we are.

So, thank you, Mr. Speaker, for the opportunity to give these two messages. Thank you.

The Speaker: Thank you, Honourable Member.

The Chair will recognise the Honourable Member from constituency 28, MP Jeff Sousa.

Mr. Jeff Sousa: Good morning, Mr. Speaker.

The Speaker: Good morning.

Mr. Jeff Sousa: And good morning to the colleagues and to those in the listening audience.

It is once again my honour to stand in the House, and I am sure on behalf of all here, to congratulate Flora Duffy on winning another world championship. Bermuda's golden girl has now won three

world championships this year, which is unprecedented. On Saturday, Mr. Speaker, she won the Snowy Mountain ITU Cross Triathlon World Championship in Australia. And Flora led from start to finish. And this certainly has capped off her best year to date, winning these three world championships. And as we know, she came eighth in the past Olympics.

Mr. Speaker, Flora is 29 years old. So there is no doubt in my mind that she will continue to dominate on the world stage. And we certainly wish her well next year. There is no doubt in my mind that in the future she will join you in the Bermuda Sports Hall of Fame. And at the moment, she is on a well-deserved break. Again, Mr. Speaker, on behalf of all of the residents of Bermuda, we would like to thank this young Island girl for putting us on the world map.

Mr. Speaker, I certainly would like to be associated with the condolences sent to my colleague, Minister Wayne Scott, and his family, on the passing of his father. Thank you very much, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

The Chair will recognise now the Honourable Member, W. L. A. Scott, from constituency 24.

Mr. W. Lawrence Scott: Thank you, Mr. Speaker.

I just wanted to be associated with the condolences to Minister Wayne Scott; his father was my great-uncle. I knew him as Uncle Reg, and he was always good for a laugh when he used to come around, the two brothers, Uncle Reg and my grandfather. So I remember coming into town with my grandparents to come visit him at his job at London Shop. For those younger Members in the House who do not know where London Shop used to be, it is right there next to where Crow Lane is now. But those were some fond memories that I had of my Uncle Reg there, and he will be sadly missed. I would like to associate my comments with those of my cousin across the aisle, which shows that the Scott family has the power to unite Bermuda single-handedly. But that is a different story, Mr. Speaker.

I would also like to send condolences to the family of Ms. Tanya Boyles, who was a constituent of mine from the Coral Hill and Quarry Hill area of Cobbs Hill. And I see the whole House, I will just associate the whole House with that because she was not just a matriarch to her family, but to the area as a whole. And I have to admit, and I am not ashamed to admit, that I am not too much of a cricket fan. But Ms. Boyles was and, well, the whole family. And although we use a lot of cricket terms here in the House, I would pretend to understand what they meant when I was here, and I would go back to her and ask her, *What did they mean when they said that?*—or whether I was *on a good wicket* or *a shaky wicket*, and all of that stuff.

[Laughter]

Mr. W. Lawrence Scott: So I thank her basically for helping mentor me through my first term as an MP. But she will be sadly missed, and my condolences go out to her family.

The Speaker: Thank you.

The Chair will now recognise the Honourable Minister for the Environment. Minister Cole Simons, you have the floor.

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

Mr. Speaker, I rise this morning to send congratulatory remarks to the Government and people of Barbados on their 50th independence anniversary. We in Bermuda, I do know, have a strong connection to Barbados. Bajans have made a substantial contribution to our culture and economy. So again, I salute them on their 50th anniversary and wish them the very best.

I would like to also send congratulations to Nick Christopher. He recently got the role as US President in the Broadway play, *Hamilton*. As you know, *Hamilton* has won 11 Tony Awards. This speaks to the professionalism that our young people have overseas, and it also reaffirms the world-class talent that our young Bermudians have. I mean, many, many people in the theatre industry would die to get that role. But the fact that a Bermudian has won it speaks to the wonders of the talents that emanate from our country.

I would like to also commend the participants of the Premier's Concert: Zoe Lopes, who was a visual artist; Isabela McKenzie was a vocalist; Aaron Spencer was a saxophone player; UDP, United Dance Productions; and Bermuda School of Music Steel Pan Orchestra; Conor Hay, a guitarist; and the Russian School of Ballet. I have been to many, many Premier's Concerts, but I think this is probably going to be one of the most notable that I have attended.

I would like to also associate myself with the comments made in regard to Minister Scott's father, Mr. Reginald Scott; Mrs. Carolyn Young, who was a friend of mine; Flora Duffy; and Tanya Boyles. We all grew up together on Social Road. Our families were very, very close. I was away when she passed. I was so sad to learn that she was stricken at such a young age. So again, to Ranay, Tim and the rest of her family, you have my condolences. Thank you.

The Speaker: Thank you.

The Chair will recognise the Honourable Whip, from the Opposition. MP Lovitta Foggo, you have the floor.

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

First, Mr. Speaker, I stand here to give condolences to the De Silva family. St. George's has lost many. Many from the community of St. David's and St. George's have been lost this year. But Louis "Red"

De Silva, who enjoyed . . . I would like to associate the entire PLP side—

[Inaudible interjection]

Ms. Lovitta F. Foggo: —and the House, okay, thank you. Thank you.

Red was an outstanding St. Georgian and outstanding citizen of Bermuda. He was a former councilman and was Deputy Mayor to the St. George's Corporation. He was a former President of St. George's Cricket Club. So everybody knows him in the sporting community. And he just was, I guess, a well-known lively man. He was a former Black Beret Cadre. And as I said, I guess you could call him a devout PLP member. And I would just like condolences to go out to his family, Mr. Speaker.

We also lost Philip Guishard, another outstanding figure in the sporting community. I would like to associate the whole House once again, Mr. Speaker, with the condolences being given this morning to his family. You know, there are so many accolades that can be said about Philip Guishard. I definitely will leave the Minister and my Shadow Ministers to give more detail about the history of Philip Guishard, and there is much, Mr. Speaker, as you well know. But condolences to his family. I associate the whole House.

Another outstanding figure from St. George's was Mrs. Dorothy Esdaille, a devout Salvation Army member. I would like to associate Ms. Scott, the Honourable Leah Scott, with these remarks. The Honourable Kenneth Bascome, I would like to associate him as well. A matriarch in St. George's and a Sunday school teacher to most of St. George's, she was honoured a few times by the Corporation as, I guess, an outstanding citizen within the St. George's area. And words cannot explain the warmth that radiated from her. Mrs. Esdaille had nothing but kind words to say to everybody, and she always greeted you with a hug and a kiss. And she will be missed greatly by the St. George's family.

The other folks from St. George's I would like to give condolences for are the Smith family, Mr. Rupert Smith. His wife was a long-time teacher, Mrs. Gaynell Smith, at St. David's Primary.

[Timer beeps]

Ms. Lovitta F. Foggo: That is not for me, is it, Mr. Speaker?

The Millet family, the Paynter family and the O'Connor family have lost loved ones in St. George's. Thank you, Mr. Speaker.

[Laughter]

The Speaker: Thank you, Honourable Member. Three minutes is not a long time.

The Chair will now recognise the Honourable Member from constituency 21, MP Commissiong.

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

Mr. Speaker, I would just like to associate myself with the remarks that were conveyed by my colleague from constituency 15, the Honourable Walter Roban, with respect to the passing of Mrs. Carolyn Young. Mrs. Carolyn Young, it bears noting, was always a person who epitomised those whom I call the *silent warriors* of our mothers' generation. Behind every Dr. Ball was a Carolyn Young. Behind every Sister Molly Burgess was a Carolyn Young. Behind a Lois Browne-Evans was a Carolyn Young fighting on behalf of all of those women back in that era—the chambermaids, the housekeepers, the waitresses, the clerks, the bank tellers—who were striving and struggling to create a Bermuda which we all have benefited from, what I call the modern Bermuda. So, Carolyn Young, who was married to another Labour stalwart, Kenyetta Young, needs to be noted and celebrated. Because, like I said, she helped create modern Bermuda just as much as some of the more frontline leaders whom we know and speak highly of, and deservedly so.

Secondly, I just want to commend the Southampton Rangers. They had a Seniors Tea. As a young boy, I had some association with the club itself, playing cricket and junior cricket up there. It is a club that was always dear to my heart. And of course, you all know that over the last few years, maybe three-four years or more, every now and then a bad light is shown upon the club. But the club is resilient, and they are seeking to turn things around. And I was very happy to see that they had the Seniors Tea, which was very well attended over the weekend. And that was followed, frankly, by a Seniors Tea that was held by my colleague here, the Honourable Zane De Silva, which drew 250 persons. I suspect that we had a number of seniors who double-dipped that weekend, and again, deservedly so.

So these are the type of things that we as a community need to foster, as a counterbalance to all the bad things that are happening in the community. Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

The Chair will now recognise . . . I am sorry my peripheral vision did not go that far around last time.

Mrs. Suzann Roberts-Holshouser: That is fine, Mr. Speaker.

The Speaker: The Chair will recognise the Honourable Deputy Speaker, MP Suzann Roberts-Holshouser.

Mrs. Suzann Roberts-Holshouser: Thank you. Thank you very much, Mr. Speaker.

I stand to my feet to recognise, even though through condolences, three exceptionally strong women who have passed away since the House last sat. One of them is the wife of the former Mayor, the Worshipful Norman Roberts. Margaret Roberts passed away in October of this year, Mr. Speaker. Strong by the way that she supported her husband in his endeavours. And let it always be said, behind every man, especially those in leadership, you will find, Mr. Speaker, a strong woman. And indeed, Margaret was one of those individuals who, while silent, for the majority of individuals she rang strong, and she certainly was heard in the words and through the words of her husband, Mr. Speaker, and will sadly be missed by her family and many in the community.

Mr. Speaker, Irene Dale, she used to be a Mello from Smith's Island, also passed away in September of 2016. Mr. Speaker, Mrs. Dale was one of those exceptional women, and so her family has also stood to be strong women. Mrs. Dale, being a Mello, being of Portuguese descent, when she was young back in the latter part of the 1930s, she went to school in Bermuda. She was born in Bermuda. She was schooled here. Her family left Bermuda to go visit, a quick visit to their family in the Azores. And due to World War II, Mr. Speaker, they found themselves staying a little longer. In actual fact, they stayed for two years. Upon her return to Bermuda, she went back to school. She graduated. She fell in love with the medical profession and decided that she would leave the Island for further education in Canada, where she would train to become a nurse.

She returned back to Bermuda. But sadly, Mr. Speaker, she did not know before she left, but women of Portuguese or black persuasion, even if you just looked Portuguese (in her particular case) were not allowed to actually practice their profession and their love in a Bermuda hospital. What she did find, of course, opening their arms to welcome women of the Portuguese and black persuasions, was the Bermuda TB Cancer [Association]. So, Mr. Speaker, that was not enough to fill her void and her desire. So off she went back to Canada, where she continued to work in the Canadian environment, in Canadian hospitals, where she was welcomed.

So, Bermuda lost a very strong woman. But again, I am pleased to say her children continue to follow, and her grandchildren, in her footsteps by being strong women.

Mr. Speaker, I would also like to mention Malinda O'Connor Binns. Mr. Speaker, over the years, this is one of the strong women of St. David's who persevered through many trials, but she had many, many dreams. I remember years gone by where Malinda had written children's books. And she struggled to find individuals who would sponsor her dream of having these books printed.

[Timer beeps]

Mrs. Suzann Roberts-Holshouser: Mr. Speaker, again I will take my seat. But I would like to recognise all three strong women. Thank you.

The Speaker: Thank you, thank you, Honourable Member.

The Chair will recognise the Honourable Member from constituency 6, MP, the Honourable Member, Wayne Furbert.

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

Mr. Speaker, I would like to be first associated with the remarks coming from the Honourable Member from constituency 8 in regard to Nick Christopher, who performs in the play *Hamilton*. I had opportunity to see that play in the summertime, and I am going to tell you right now it was extraordinary to see the talent and the performance of that particular event, although here recently some of the things that have come up about Hamilton and the Trump team . . . but that is another story.

And also [I want to be] associated with the remarks regarding Troika from my honourable colleague from constituency [5]. We recognise in Bermuda Troika, or at least we should recognise, the talent that we have in this country, which tells me that the Troika event could go on much longer than the four weeks. I mean, people were pouring into that event, and they held it over and over again, and people were attending. And I will speak more about that on the final motion to adjourn.

The Speaker: Yes, right, because this is not for speeches.

Hon. Wayne L. Furbert: I saw you getting ready to speak.

The Speaker: Absolutely. You are paying attention.

Hon. Wayne L. Furbert: Yes, I am.

[Laughter]

Hon. Wayne L. Furbert: I would also like to be associated with the remarks regarding the AME Church that celebrated its 150 years this year, St. John Church there in Bailey's Bay.

I would also like to send condolences to the family of Janet Fleming, who passed away about four days ago, to send condolences particularly to her children from Hamilton Parish.

Mr. Speaker, I believe that is it. Thank you.

The Speaker: All right. Thank you, Honourable Member.

The Chair will now recognise the Honourable Minister for Home Affairs. The Minister Patricia Gordon-Pamplin, you have the floor.

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

Mr. Speaker, obviously when we lose people over the course of the period that the House is in recess, we have lots to catch up on in terms of expressing our condolences. And I think that it is important that we all recognise that this is very, very heartfelt. The Olympic Association, during the course of the summer, lost both Phil Guishard and the mother to Brenda Dale, Ms. Irene Dale, both of whom have been acknowledged today and with whom I would like to associate my comments. But I think it is very important to see how the family, the Olympic family, were able to rally together through the adversity. Brenda Dale was, in fact, invited to speak at Philip Guishard's funeral at a time when her mum had just passed away that same day, or the day before. So it was very difficult for her to have dealt with that. And she did it most admirably, Mr. Speaker. My heart goes out to Brenda and her family and to Philip's family as they wrestle with that loss.

And also, obviously, to my colleague. I would like to be associated with the condolence remarks given on the passing of his father. It is very difficult to lose a parent.

Mr. Speaker, I would like to offer congratulations to the City Hall Arts Festival Committee. Yesterday—it was meant to be on Saturday, but the weather, the inclement weather precluded the event from going forward. They rescheduled to yesterday in Queen Elizabeth Park, their Arts Festival. And as part of that festival, Mr. Speaker, they brought to Bermuda some of our homegrown talent who have made it big on the international stage. They brought home Devaune Ratteray, who actually is working in our London office at the moment, but who had the opportunity to tour Europe by his being able to join a dance troupe and to join the Bollywood scene in so doing. Devaune has made some CDs, and he was able to share his music last night.

As did Mishka, who is a Bermudian who is actually living and performing in Hawaii. So when we think in terms of the talents that our young people possess, Mr. Speaker, and the impact and the breadth to which their talents can reach, it is a time of immense pride. The Arts Festival Committee did a tremendous job in putting together that Arts Festival yesterday, and I would ask that congratulations be sent to them on that wonderful occasion. Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Minister.

The Chair will recognise the Honourable Member from constituency 31, the Learned Member.

MP Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Yes, thank you. Good morning, Mr. Speaker.

The Speaker: Good morning.

Mr. Shawn G. Crockwell: Mr. Speaker, I would first like to be associated with the remarks of condolence to the Honourable Minister, Wayne Scott, and his family, on the loss of his father. I called the Honourable Minister, my friend, when I first learned of it. And so he knows he is in my thoughts and prayers.

And also, the Honourable Member is an alumnus of the same school. And unfortunately, that alumni lost some wonderful people over the summer, Mr. Speaker. First, I would like to acknowledge the passing of Fredricka Jabbar, Mr. Speaker, known as "Freddie." And when I saw it on the front page of the newspaper, I did not know she passed. And I saw her picture on the front page, and I just assumed that it was something that she had done, she was being acknowledged for something, because she was known to be such a lovely person. She was a little older than I am, Mr. Speaker. She was 52 when she passed.

But when we were in high school together, she was so beautiful, always had a smile, had the most wonderful personality you can imagine, Mr. Speaker. And it seems like, unfortunately, Mr. Speaker, she had a battle with pancreatic cancer. And it is the good ones, Mr. Speaker, for whatever reason, we lose so early. She is survived by her husband, Marv Jabbar, daughters Capri, Aristia, and Stephanie, and a son Shamar. And it was a wonderful going-away service that I read about at the Bermuda College, also a former employee of Ironshore. And I would associate the Honourable Minister, Wayne Scott.

And also, even a greater shock because this person was much closer to me, the passing of Denniska Mapp Williams, Mr. Speaker. Also another alumna of Bermuda Institute, she was 44 years old, another young woman who was just full of life, full of personality. We used to sing together, Mr. Speaker, in the choir. And when I heard about that, it just really makes you reflect on life in general. She left behind a beautiful daughter, Jahlae' Albuoy and De'Shalae Lowe, Mr. Speaker. So, Bermuda Institute lost two wonderful alumni.

Also, I would like to recognise the passing of a constituent of mine and a former neighbour, Mrs. Joan Mello, Mr. Speaker. She was a wonderful lady, always in the community looking out for the children, and always had a fantastic manner about herself, she would bring you into the house for some lemonade, that type of neighbour. And so, I would like to extend my condolences to her family. Thank you, Mr. Speaker.

The Speaker: Thank you. Thank you, Honourable Member.

The Chair will recognise the Honourable Member, MP Jackson, from constituency 20.

Ms. Susan E. Jackson: Good morning, Mr. Speaker.

The Speaker: Good morning.

Ms. Susan E. Jackson: I would like to send condolences to the family of William Zuill. Rebecca and Catherine and Bill Zuill are all people whom I grew up with. And so, I knew more the children, and certainly my heart and my thoughts go out to them. But Mr. Zuill, I know him for three big things—as Editor of the *Royal Gazette* for many years. Certainly, he had a monumental commitment to the National Trust. And also most probably memorable for me was the writing and publishing of the *Bermuda Story*, which was a text of *Bermuda Story*, of Bermuda's history. And I certainly referred to that quite a bit and enjoyed reading that as a young person and still have a copy or two on my shelf at home.

But I certainly spent quite a bit of time with the Zuill family, growing up in Smith's Parish. And I actually attended Whitney Institute when it was still a primary school. And Catherine and Becky and I spent quite a bit of time together in the Zuill home, with both Joyce and William, both of their parents there. And I must say that it was a very touching time for me because they were such a deep-seated Bermudian family. They certainly, to me, really just emulate what Bermuda historically and . . . Just Zuill Park and the nature and cedar, these are all the kinds of feelings that come back to me when I think of Mr. Zuill and the family. So I just send all my heartfelt prayers. And I associate the Honourable Cole Simons and the Honourable Jeanne Atherden, as well.

I would also like to acknowledge and send my condolences to my colleague, the Honourable Wayne Scott, on the passing of his father. Wayne and I are actually cousins, but on the maternal side. But I certainly hold him and his family in my thoughts during this very sad time.

And I would also like to send condolences to a constituent's family, Marian Holland, a very kind-hearted, soft-spoken woman who definitely had her concerns, and she would very nicely share her concerns about the constituency to me. And one of the memorables was sort of trying to find some way to negotiate the very tricky crossroads between Serpentine and Pitts Bay at the entrance of Fairyland Road. But I also grew up with the children, and I send my thoughts to them. Thank you.

The Speaker: Thank you, Honourable Member.

The Chair will now recognise the Honourable and Learned Member from constituency 36. MP Michael Scott, you have the floor.

Hon. Michael J. Scott: Mr. Speaker, thank you.

Mr. Speaker, over the break, we lost many friends and family. Before I begin with the specific ones, may I be associated with the condolences offered to the Minister of Education on the loss of his dad and father, and to his whole family. I wish to be associated.

Also to be associated with the loss and condolences offered by the Honourable Member for constituency 5, for Mrs. Carolyn Young, whose family I have a strong connection with through my brother.

But [for other losses] over the holidays, Mr. Speaker, I ask that the House send condolences to the family of Mrs. Marion Lemond, the mother of Mrs. Olga Scott and her sister Lorna; the grandmother of the Honourable Member Lawrence Scott. I wish to associate the Minister of Education, Wayne Scott; the whole of the Progressive Labour Party, particularly in honour of Alex Scott, our former Premier and Member of this House, for the loss of Mrs. Lemond, who lived to 103 years.

Mr. Speaker, I would like to have the House send condolences to the family of Mrs. Myrtle Foley, her daughter and (all of her children) Charlene and Albert and Cheryl, of Long Bay Lane. To the family of Mr. Tony Lopes, to his wife, Eileen Lopes and the whole family, who recently passed. Mr. Speaker, you will know that the Lopes garden was a marking point for whenever—

The Speaker: We threw balls over his—

Hon. Michael J. Scott: You placed balls, I hope, Mr. Speaker.

And finally, Mr. Speaker, may I ask this House to send condolences to the family of Mr. Curt Rudolph Engelhorn, husband of Heidemarie Engelhorn. Curt Engelhorn passed last month on the 13th. His association with Bermuda was with Corange Limited, a multinational pharma company, a Fellow of Bermuda College, Five Star Island residents. The Honourable Minister of Economic Development, Dr. Grant Gibbons, has asked to be associated, and I gladly do so; the Minister of Health; and Member Leah Scott.

Sending condolences to the families of all of those mentioned persons, lastly to Mr. Engelhorn's family. Thank you, sir.

The Speaker: Right. Thank you. Thank you, Honourable Member.

The Chair will now recognise the Minister for Economic Development. Minister Dr. Gibbons, you have the floor.

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

Mr. Speaker, I rise on, I think, a happy note to say that, as many Honourable Members will be aware, we had a very successful Global Entrepreneurship Week last week. And I would like to congratulate all of

the members involved at the Bermuda Economic Development Corporation, the BEDC; the Youth Entrepreneurship Initiative; and certainly the Department of eCommerce as well. This has grown from very humble beginnings in 2008 when it first started. At that point, there were six events and 100 participants. Last year, there were 40 events and 5,000 participants. And this year, there were 45 events and we think probably even more participants as well.

There have been a number of very exciting points in the week—the Technology Innovation and Rocket Pitch Awards, and on Friday evening, the American Consul General hosted Women’s Entrepreneurship Week at her residence, along with some speakers from overseas as well. It is interesting to note that in the US, about 50 per cent of the small businesses are owned or managed by women, whereas in Bermuda, when the BEDC looked at this a couple of years ago, they found out that in terms of the BEDC membership, it was closer to two-thirds of small businesses were owned or managed by women, as well.

So a very successful week, and I think they are doing a very good job in terms of stimulating entrepreneurship and supporting entrepreneurship in Bermuda, which clearly is important for business growth and job growth as well.

Mr. Speaker, while I am on my feet, I would like to ask that condolences be sent to a number of people. Certainly in addition to the family of William Zuill, the *Royal Gazette* and Bermuda Press over the summer lost another stalwart in the form of Roger Davidson, who had been involved with Bermuda Press (Holdings) for some 43 years, a very strong advocate of a free press and a strong and independent daily newspaper. In the words of David White, *He was not a backroom editor*. He was also, as many will know, very involved in the local retail community. He graduated from costing clerk and menswear buyer to president over many years. And he certainly had been involved in a number of charities, including the Bermuda Festival, amongst others.

I would also like to be associated with the condolences to my colleague, Wayne Scott, the Honourable Member, on the passing of his father; to Flora Duffy; to Mrs. Norman Roberts; and I think I will stop there, Mr. Speaker. Thank you.

The Speaker: All right. Thank you, Minister.

The Chair will now recognise the Honourable Member from constituency 35. MP Dennis Lister, you have the floor.

Hon. Dennis P. Lister: Thank you, Mr. Speaker.

Mr. Speaker, I rise to my feet just to be associated with some of the earlier remarks that have been said, mainly, firstly I should say, to the Honourable Minister Wayne Scott on the passing of his father. His father was actually a member of my church, Mr.

Speaker. We attended church together. And although he had been sick for a while and we have not seen him in church, he was definitely missed in church, Mr. Speaker. He was one of those gentlemen I refer to as a real gentleman, a real quiet gentleman, but always stately, always straightforward, and someone who encouraged respect, Mr. Speaker, because he gave respect. So he was definitely missed. I had not seen him in church, and although I have already expressed condolences to his wife, to your mother, Wayne, I am expressing condolences today and wanted to join in with what has been said here.

Also, condolences that have been expressed to the family of Mr. Guishard—as a former Sports Minister, Mr. Speaker, and yourself as former Sports Minister, will understand the outstanding contribution that Mr. Guishard gave to the Ministry, but not only to the Ministry but to the country, as his involvement in the Olympics movement and sports in general. And he was always one of those resources whom you could turn to when I was Minister, and you knew he was going to provide to you a full in-depth response to the information you were seeking.

Likewise, Brenda Dale, Mr. Speaker, I would like to be associated with the remarks on the passing of her mother. As the Minister said when she was on her feet, at Mr. Guishard’s funeral, Brenda’s mother actually passed that day, and Brenda came in and still participated. And you felt what she was feeling at that time in the loss of her mother. I spoke to her at that time and gave my condolences, but join in again to what has been said here.

And again, Mr. Speaker, the condolence that has been expressed to the family of the late Red De Silva. I guess if he was here today, he would really give me a hard rubbing if he saw me standing here in blue and blue, Mr. Speaker. But it is one of those things I did not think of today. But I would like to be joined in with those condolences that have been expressed to his family. Thank you.

The Speaker: Thank you, Honourable Member.

The Chair will now recognise the Honourable Minister for Health. Minister Jeanne Atherden, you have the floor.

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

Mr. Speaker, I would like the House to send congratulations to the Bermuda Cancer and Health. On Thursday, they had their fifth annual men’s screening. And at that point in time, Mr. Speaker, I was amazed at the number of individual agencies and men who came up to not only have their prostate tested, to have their glucose tests, to be able to do all those things that the women of this Island are always trying to get our men to do. And, Mr. Speaker, if nothing else, because this year the Ministry has been promoting men’s health, this was right in line with what we wanted to do. And I must say, Mr. Speaker,

that I know a lot of men out there—I just see them along my aisle putting their hands up just to remind me that they support this. I am sure that is why they put their hands up, Mr. Speaker.

[Laughter]

Hon. Jeanne J. Atherden: But I just also want to say congratulations to the Mid Atlantic Wellness Institute, because on Friday they had their MindFrame PhotoVoice Exhibition. And I had the privilege to go and open it up. And, Mr. Speaker, I am encouraging anyone who has not been down there to go because it is open until the first week in December. And I was amazed at the expression of art that you saw there. But what really took me was the fact that not only had the individuals expressed themselves; they actually had expressed, by the painting or the photography, what they were thinking of at the time. And many times, you see something and you wonder what was in that individual's mind. But they actually said it. And when you read what they were thinking, you could actually see it was a real, true expression of what was in their minds and their thoughts. So, Mr. Speaker, I would like to have congratulations sent to those two agencies.

The Speaker: Thank you. Thank you, Honourable Minister.

The Chair will now recognise the Honourable Leader of the Opposition. MP David Burt, you have the floor.

Hon. E. David Burt: Thank you and good morning, Mr. Speaker.

The Speaker: Good morning.

Hon. E. David Burt: Mr. Speaker, I would like to rise and associate myself with the condolences to the Honourable Minister for Education on the passing of his father, and also to associate myself with the condolences that are offered from this side on behalf of the whole House to the family of the late Carolyn Young. I would also like to associate myself with the condolences for the family of the late Red De Silva. I had the occasion to attend that home-going service. As you well know, Mr. Speaker, he was a long-time member and supporter of the Progressive Labour Party.

I would also like to ask that the House—and I would associate the whole House in this—send a letter of condolence to the family of the late Chairman of the Progressive Labour Party, Mr. Junior Maynard Dill, who passed away suddenly in September. Of course, as we know, Mr. Speaker, he was a long-time serving member of the PLP. He was also a strong trade unionist. And his loss was certainly a miss for the party and the country.

I would also like that condolences be sent to the family of another constituent of mine. That would be Mr. Jermaine “Speedy” Smith, who succumbed to his illness at a very young age. And I would like to ask that condolences be sent to his family, Mr. Speaker.

Moving on, Mr. Speaker, regarding the congratulations, I would ask, of course, to associate this side of the House, and I think the whole House, for the congratulations that were offered by the Member from constituency 28 to Ms. Flora Duffy on her continued accomplishments in yet another world championship last weekend, and all the exploits which she has managed to achieve since the last time the House did sit. And it is certainly with great pleasure and pride to watch a Bermudian do so well on the world stage. And it is certainly a cause of pride for the entire country. So I wish to associate myself with those remarks.

I would also like to offer congratulations on an annual thing that is done. But on Saturday, it was the Delta reading festival. And the ladies at Delta Sigma Theta Sorority, Incorporated, held their [Children's] Reading Festival. Although the weather did not cooperate in the best manner, my family and I were able to attend, and also lots of families were able to make it to that wonderful event. And I do want to also associate the Honourable Member for constituency 24 for those congratulations and the continued work of Delta Sigma Theta in giving out free books, encouraging literacy, and making sure that our young kids are familiarised with the fact that you do not just have to read an iPad, but you can also pick up a book. So that is not a bad thing.

Finally, Mr. Speaker, it would be remiss of me if I did not congratulate the Devonshire Recreation Club on winning the Dudley Eve Trophy yet again. I was pleased to be in attendance at that event. It is a young team, and I wish them all the best in their future endeavours. Thank you, Mr. Speaker.

The Speaker: Thank you, thank you, thank you.

The Chair will recognise the Honourable Member from constituency 1. MP Kenneth Bascome, you have the floor.

Hon. Kenneth (Kenny) Bascome: Good morning, Mr. Speaker. Good morning, honourable colleagues.

I would like to be associated with the condolences sent for Mrs. Roberts, Mrs. [Dorothy] Esdaille, Mr. De Silva and to my Honourable Member, the Minister of Education. Mr. Speaker, you would be aware that I had a personal relationship with Mrs. Esdaille. When I was a little tyrant in my community, she would always say to me, *You need to behave yourself*. So I built a great relationship with her.

[Inaudible interjections and laughter]

Hon. Kenneth (Kenny) Bascome: I do not know what that Honourable Member is attempting to do.

And to Mrs. Roberts, I had a personal relationship with Mrs. Roberts also. You will be aware that she and her husband ran a gift shop in the town, and her son is keeping that particular gift shop going. I would also like to say to Mr. Smith and his family, I had a personal relationship with him also, Mr. Speaker. And in closing, I would like to offer congratulations to Mr. Wayne Smith, who was recently appointed to chair the Caribbean Postal [Union]. Thank you, Mr. Speaker.

The Speaker: Thank you. Thank you, Honourable Member.

Would any other Honourable Members care to speak?

There are no other Members to speak. So that will conclude the congratulatory and obituary speeches.

MATTERS OF PRIVILEGE

The Speaker: There are none.

PERSONAL EXPLANATIONS

The Speaker: There are none.

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

The Speaker: There are none.

INTRODUCTION OF BILLS

GOVERNMENT BILLS

The Speaker: The Chair will recognise the Minister of Finance.

FIRST READINGS

U.S.A.—BERMUDA TAX CONVENTION AMENDMENT ACT 2016

Hon. E. T. (Bob) Richards: Thank you, Mr. Speaker. Mr. Speaker, I have two Bills. I am introducing the following Bill for its first reading so that it may be placed on the Order Paper for the next day of meeting: The U.S.A.—Bermuda Tax Convention Amendment Act 2016.

The Speaker: Thank you, Minister.

INTERNATIONAL COOPERATION (TAX INFORMATION EXCHANGE AGREEMENTS) AMENDMENT (NO. 2) ACT 2016

Hon. E. T. (Bob) Richards: Also, Mr. Speaker, I am introducing the next Bill, the following Bill, for the first reading so that it may be placed on the Order Paper for the next day of meeting: International Cooperation (Tax Information Exchange Agreements) Amendment (No. 2) Act 2016.

The Speaker: All right. Thank you, Minister.

The Chair will now recognise the Honourable Minister of Health, Minister Atherden.

BERMUDA HEALTH COUNCIL AMENDMENT ACT 2016

Hon. Jeanne J. Atherden: Mr. Speaker, I am introducing the following Bill for its first reading so that it may be placed on the Order Paper for the next day of meeting: Bermuda Health Council Amendment Act 2016.

The Speaker: Thank you, Minister.
Next.

QUARANTINE ACT 2016

Hon. Jeanne J. Atherden: Mr. Speaker, I am introducing the following Bill for its first reading so that it may be placed on the Order Paper for the next day of meeting: Quarantine Act 2016.

The Speaker: All right. Thank you very much, Minister. Thank you.

OPPOSITION BILLS

The Speaker: There are none.

PRIVATE MEMBERS' BILLS

The Speaker: There are none.

NOTICES OF MOTIONS

The Speaker: There are none.

ORDERS OF THE DAY

The Speaker: Thank you.

The Chair will recognise for the first order of the day the Learned Attorney General and Minister of Legal Affairs. The Learned Member, T. G. Moniz, you have the floor.

Hon. Trevor G. Moniz: Thank you. Thank you, Mr. Speaker.

I move that the Bill entitled the Bribery Act 2016 be now read the second time.

The Speaker: Thank you, Minister.

Are there any objections to that?

Please carry on, Attorney General.

BILL

SECOND READING

BRIBERY ACT 2016

Hon. Trevor G. Moniz: Mr. Speaker, I am pleased to commend to this Honourable House for its consideration the Bribery Act 2016. The proposed legislation will modernise Bermuda's anti-corruption laws by introducing a new, simplified, and comprehensive statute prohibiting bribery. It will also be a significant step towards extending to Bermuda the United Nations Convention Against Corruption (known as UNCAC) and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (which we will call the Bribery Convention).

By way of overview, new general offences of bribery, based on the UK's Bribery Act 2010, will replace the existing bribery offences. There will be a new duty on public officials to report an offer of a bribe, and corresponding offences of failing to comply with that duty to report or interfering with that duty to report. These provisions derive from the Isle of Man's Bribery Act 2013.

The Bill also establishes the National Anti-Corruption and Bribery Committee to advise the Minister regarding the effectiveness of legislation and policy in accordance with the requirements of Article 6 of the UNCAC, which provides for the establishment of a body to oversee, coordinate, and review the implementation of anti-corruption procedures and policies.

Mr. Speaker, Bermuda's corruption offences date back to the 19th century. The UK and other jurisdictions have since moved on from similar provisions, and it is important that Bermuda do so as well. The UK Bribery Act 2010 was a response to very real problems with their former laws on corruption. Other small jurisdictions, such as Isle of Man and Gibraltar, have similarly moved to modernise their law, and we cannot be left behind.

That the UK has moved from these former laws leads to a separate problem which is peculiar to Bermuda. As prosecutions based on the old corruption laws fade into memory, we will not stand to benefit from the developing case law through court decisions and appeals. In keeping our present offences, the Bermuda courts will have to be guided by stale precedents and a legal status quo frozen in time since

2010. As the years advance, this problem would become particularly acute if we were not to move on.

Mr. Speaker, the Bill before Honourable Members today will provide a modern and comprehensive scheme of bribery offences in order to allow investigators, prosecutors, and the courts to tackle bribery effectively whether committed at home or overseas. The Act will also help to enhance Bermuda's international reputation for the highest ethical standards. In summary, the Bill would create the following offences:

- one general offence of bribery covering the offering, promising, or giving of a financial or other advantage;
- another general offence covering the requesting, agreeing to receive, or accepting of a financial or other advantage;
- a specific offence of bribing a foreign public official;
- a specific strict liability offence of failure by a commercial organisation to prevent bribery, subject to an adequate procedures defence;
- an offence of failure by public officials to report instances involving bribery and corruption; and
- an offence of interfering with this duty by public officials to report.

Mr. Speaker, the general offences would focus on either the conduct of the person bribing another or the person being bribed, and identify six cases, each involving the improper performance of a function, where one or the other of these general offences would be committed. These general offences apply to functions of a public nature as well as in a business or employment [context].

The general offences and the six cases noted in the Act are drafted in an expansive manner to cover a broader range of acts and omissions than is currently provided for in our present corruption offences, which are quite technical in the way they are drafted. Those offences rely on demonstrating acts being performed "corruptly," which imports an unduly high dishonesty threshold, and which has been the subject of confused and conflicting case law arising out of England and Wales. The new unified "improper" test will assist the police and prosecutors in pursuing acts and omissions which are deleterious to the public trust.

Mr. Speaker, the Act will also insert new offences of bribery of a foreign public official and failure to prevent bribery, which are specifically aimed at the use of bribery in commercial transactions and should help create a level playing field for business. The bribery of a foreign public official offence focuses on the use of bribery to influence the recipient in his or her official capacity and is closely modelled on provisions from the Bribery Convention.

The Bill would also allow for extraterritorial jurisdiction, which will enable the prosecution in Bermu-

da of bribery committed wholly or partly abroad by persons ordinarily resident in Bermuda as well as Bermudians, PRCs and Bermuda-registered corporate bodies.

Mr. Speaker, establishing the right culture within commercial organisations is clearly of paramount importance in order to prevent bribery occurring in the first place. That is part of the operational good practice of businesses in any event, although the way in which that is disseminated will clearly depend upon the size and nature of the particular business.

It is for this reason that the new strict liability offence of failure to prevent bribery has been inserted, which will be subject to a penalty of an unlimited fine. However, it will be a defence if the company can prove that it had *adequate procedures* in place. It may simply be a *rogue employee* who is committing bribery.

To assist businesses in Bermuda, I will be issuing public guidance on what constitutes adequate procedures for a commercial entity, and the Bill will require the courts to have regard to such guidance. Implementation of the legislation will not be immediate, as I will be seeking to further consult with stakeholders in respect of that guidance.

Mr. Speaker, under the Bill, public officials would be subject to a duty to report instances of bribery which come to their attention. This duty will also extend to offences under section 33B of the Public Treasury (Administration and Payments) Act 1969 (that is, offences of collusion relating to government contracts).

In order to encourage an institutional culture which stands vigilant against bribery, it is important that public officials be placed under such a duty. Failure to report bribery when under an obligation to do so, or interfering with such a duty, are to be taken very seriously and will attract stiff penalties. No longer will it be acceptable behaviour to turn a blind eye when corruption is seen or suspected in the public service.

It is important to emphasise, Mr. Speaker, that this new duty extends to all public officials. This will include the Premier and Ministers, Parliamentarians, public servants, persons appointed or elected to any municipality, parish council or any other public authority, any other person carrying out a function of a public nature. These categories would include quangos, consultants, and private contractors performing services on behalf of the Bermuda Government.

Mr. Speaker, I wish to provide Honourable Members with the background to this very important legislation. The Government has been considering the need for reform in this area for some years. Significant gaps existed in our legislation and administrative practices relating to bribery and corruption. Bermuda's National Anti-Money Laundering and Anti-Terrorist Financing Strategy and Action Plan proposes that cor-

ruption and bribery laws be reformed in order to achieve compliance with international benchmarks.

In January 2015, representatives from the UK Foreign and Commonwealth Office and Ministry of Justice were in Bermuda at the invitation of the then-Governor, Mr George Fergusson, to meet with Government of Bermuda stakeholders to discuss the effect of the UK Bribery Act 2010 and to strategize possible implementation of Bermudian legislation based on that Act.

Mr. Speaker, there followed internal consultation, and Government made a determination in principle that incorporating the UK Bribery Act into Bermuda's domestic legislation should be the way forward. To that end, I addressed Honourable Members on Friday, the 20th of May 2016, on Government's plan to modernise and update our laws on bribery and corruption.

Honourable Members will also recall my Statement on Friday, the 27th of May 2016, on Government's intentions to seek the extension to Bermuda of the United Nations Convention Against Corruption and the OECD Bribery Convention.

Mr. Speaker, the Office of the National Anti-Money Laundering Committee published a Bribery and Corruption Information Paper in May 2016 in order to consult with stakeholders, and extensive public comments were received thereon. A consultative draft copy of the Bill was then drafted and presented to the House of Assembly on Friday, the 15th of July 2016, as the basis for broader public consultation. Extensive submissions at this stage were then received from industry and members of the public.

The Ministry considers this to have been a very successful consultation exercise, Mr. Speaker. The feedback received by the Ministry during this period suggested extensive general support for what Government was seeking to achieve with its proposed legislation, but noted a few suggestions for improvement. Most changes proposed have been accepted and incorporated into the final Bill before Honourable Members today. Other suggestions relating to the broader question of proper conduct in public office will be kept in consideration as Government seeks to effect broader good governance reforms later on in this legislative session.

Thank you, Mr. Speaker, and I look forward to the debate on this very important subject.

The Speaker: Thank you, Attorney General.

The Chair will now recognise the Shadow Attorney General, the Shadow Minister for Legislative Affairs, the Learned Member from constituency 36, MP Scott.

ANNOUNCEMENT BY THE SPEAKER

HOUSE VISITOR

The Speaker: And just before you start, MP Scott, I would like to recognise in the Gallery a former Senator, Neville Tyrrell, who happens to be here.

[Desk thumping]

[Continuation of debate on Bribery Act 2016]

The Speaker: Please carry on, Honourable Member.

Hon. Michael J. Scott: Thank you, Mr. Speaker.

Mr. Speaker, the Bribery Act 2016 is an introduction of an Act which the Progressive Labour Party welcomes. In our Throne Speech Reply, we indicated those very remarks and sentiments, that we welcome the Act. And we felt that it had not gone far enough in the area of improving governance. I am therefore welcoming the Learned Attorney General's indication that he appears to accept and acknowledge that levels of governance implementation are something that the Government intend to pursue and that he appears to recognise that there is more to be done to refine our corruption and bribery platforms so that it does improve and result in an aim and objective that we on this side of the House ascribe to.

Another reason to welcome the Bribery Act 2016 is to acknowledge the fact that this Bill now codifies and modernises the approach to this important governance area of a number of pieces—of at least 10 other pieces—of Bermuda legislation that spoke to bribery or corruption in our legislation. I would just bring Members' attention to the fact that in our laws . . . and the Learned Attorney did refer to this modernising accomplishment by the 2016 Act, but the Criminal Code is superseded now by the Bribery Act 2016. That code contained references to official corruption and extortion of public officers. The Parliament Act 1957 also carded offences at sections 15 and 16, acceptance of a bribe by a member and bribery of a member.

And recently, the platform of our bribery legislation under the Justice Protection Act made it an offence for offering or accepting bribes for information that would prejudice the safety of a participant in a justice protection programme. So, now we have all of these references, some old and some modern, integrated into a modern platform.

I would also like to note that our Bribery Act, in replacing and superseding all of this Bermuda legislation, is drawn very closely, if not a direct replica . . . with its "tropicalisation," it is a direct replica of the Bribery Act 2010 of the UK. And I would have liked to have seen us, with our first venture into the modern bribery legislation, ensure that we did more than just replicate the UK legislation. It is a standard piece of legislation. It is adequate in its provisions. But I do believe that the features of bribery in territory-to-territory manifest themselves in specific ways in one country to another. And so, a clearer linking of our

legislation to the arrangements on the ground, or the features on the ground, is something that I think we should continue to strive for.

But it is an important first step, and we do support this introduction of this legislation to deal with bribery. In particular, the bribery of corrupt foreign officials is important for any modern democracy to have.

In the brief that the Learned Attorney supplied me with, I had only one matter that I wanted to be clear about. It is not mentioned in the brief, and it is the extension of the time limit for bringing offences, the extension of the time limit under the Criminal Procedure Act. Under that modern Act, summary offences may be brought within, at the top end, 18 months, 12 months in one provision and 6 months, all with the leave of the Director of Public Prosecutions. And now we have extended that time to three years. I just wanted it to be clarified that it is three years from the passage of today's legislation? I would be grateful.

Hon. Trevor G. Moniz: Perhaps I can help by way of clarification.

The Speaker: Do you want to do that now? You can just do it when you wrap up, Honourable Attorney General. Yes, you can just . . .

Hon. Trevor G. Moniz: I will address it more in Committee, as well.

The Speaker: Yes.

Hon. Trevor G. Moniz: Thank you, Mr. Speaker.

The Speaker: Okay.
Go ahead.

Hon. Michael J. Scott: Thank you, Mr. Speaker.

I think that would be the only point, because if it carried other implications allowing for a different outcome, it might strike at the question of ex post legislation. I just wanted to get that clarified from the Learned Attorney.

But in all other terms, as we indicated in our reply, this is welcome legislation, by the Progressive Labour Party. Its implications for the national anti-money laundering regimes and terrorist financing regimes are important. But, of course, the overarching reason for support is its contribution to good governance in our country. And this is a Bill which we find ourselves able and happy to support.

The Speaker: All right. Thank you. Thank you very much.

Would any other Honourable Member care to speak?

The Chair will recognise the Honourable Member, MP Leah Scott, from constituency 30.

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

The Speaker: Good morning, Honourable and Learned Member.

Ms. Leah K. Scott: Thank you, Mr. Speaker.

I am going to be brief. I am the President of the Bermuda Association of Licensed Trustees, and we are a lobbying group for the trust industry to Government. And I would like to say that we support this legislation. It comes as a result of the far-reaching UK Bribery Act, which came into effect in 2011. And I think it has to be the toughest anti-corruption legislation that there is. I think it is tougher than even the US Foreign Corrupt Practices Act.

The Act is designed to keep businesses honest, and it is also designed to protect Bermuda and other jurisdictions against bribery and corruption.

And if any of you have any bank accounts, I am sure you realise that now we are dealing in a very, very strongly regulated world. You cannot open an account these days without a driver's licence, without a utility bill and, in some cases, without your firstborn.

An Hon. Member: Hear, hear!

[Laughter and inaudible interjections]

Ms. Leah K. Scott:

So what we believe this legislation is going to do is it is going to create a level playing field. It is going to ensure that businesses have robust anti-corrupt policies and procedures in place. And it is going to ensure that we as a jurisdiction are practicing good corporate governance and best practice. So we support it, and I thank the Minister for bringing it forward. Thank you, Mr. Speaker.

The Speaker: Thank you. Thank you, Honourable Member.

The Chair will now recognise the Member from constituency 17, MP Walton Brown.

Mr. Walton Brown: Thank you, Mr. Speaker.

Mr. Speaker, I am happy to stand along with my colleagues and support this legislation. It is very important that we have strong anti-bribery legislation in our country. For the sake of providing a historical context, Mr. Speaker, it is important to note that Bermuda had what was effectively a fundamentally corrupt system up until we had our new Constitution introduced in 1968, because you effectively had collusion among the powerful elite. We became less corrupt after 1968, but corruption still existed in a number of ways, Mr. Speaker.

This is a welcome step. We need to ensure that our reputation is strong and robust and protected. We need to ensure that what we do is recognised ex-

ternally, but equally internally. And so when we talk about bribery, Mr. Speaker, we all need to know that when people go out canvassing and issue \$100 grocery vouchers, that is bribery. And it is unlawful.

[Inaudible interjection and laughter]

Mr. Walton Brown: And so, when we consider that, we need to consider that in all of its manifestations. I will leave it at that.

[Inaudible interjections]

[Gavel]

The Speaker: Hold on, Honourable Members.

Mr. Walton Brown: I am glad to hear such enthusiastic support for these comments, Mr. Speaker.

We do have a challenge in our small jurisdiction, because the intimacy of our relationships means that there are sometimes just understandings that people have when they interact. And so, we have to ensure that the legislation can properly address those kinds of concerns as well, because some people may not even consider certain interactions to be inappropriate.

I was concerned by one comment that the Honourable Attorney General made when he said that we are going to pass this today, but it is not going to be implemented right away because we are going to further consult. But I thought you would have consulted beforehand. So why, after having consulted all the key stakeholders, would you need to further consult once this is passed? I would just like clarification on that.

I also would like clarification on the notion of extraterritoriality. I was surprised at that. I also just need for the Attorney General to explain why this is considered to be so important. So, effectively, what it says is, *I as a Bermudian can go overseas and engage in a particular act, and I can be charged in Bermuda for that offence.* And I know the Americans, as the world's hegemonic power, they do it with regularity and nobody can stop them, because might is right. But please help me to understand why this is considered to be important here, that what people do outside of Bermuda they can be charged for, as a criminal offence within Bermuda. So there may be a sound legal reason for that. But I just do not understand how that could be a relevant and necessary part in our legislation to date.

Those are my brief comments, Mr. Speaker, and thank you very much.

The Speaker: Thank you, Honourable Member.

Would any other Members care to speak?

It looks like all have spoken. So we turn now to the Learned Attorney General. You have the floor.

Hon. Trevor G. Moniz: Thank you. Thank you, Mr. Speaker.

With respect to the comments made by the Shadow Attorney General, the Honourable and Learned Michael Scott, he asked about the summary offences and the time limit on summary offences being three years. That has been extended from the shorter period that is normal, but that is in line with the provisions in, I believe it is the Good Governance Act 2012, which was instituted by the previous administration, the PLP Administration. So I think in some of those offences with good governance and related to corruption, even on summary jurisdiction, the limitation period to bring prosecutions was extended. Because by the nature of these offences, you know, they are difficult to discover. They take longer to investigate. And so it is good to give wider latitude.

And that is good in two ways. It gives you a longer period to prosecute an offence. But it also means that if you discover it after, you know, it gives you a longer period to bring it as a summary offence if it is a minor offence rather than bringing it in the Supreme Court. So you still have the option of which court is the appropriate court to bring it in. Otherwise, after a short period of time, you are not able to bring it in the Magistrate's Court; you would have to take it to the Supreme Court, which may not be in the interest of the prosecution or in the interest of the defendant, or justice generally. It just gives a prosecutor greater flexibility.

I think the Honourable and Learned Member also asked about how much the provisions of this Act were homegrown. And as I said in my original brief, it is taken largely from the UK Bribery Act. We have added some bits and pieces from the Isle of Man. We have also strengthened those bits and pieces. Our duty to report bribery is more robust than that of the Isle of Man. And also, the National Anti-Corruption and Bribery Committee is something that we have added in here. As we have a National Anti-Money Laundering Committee, we are going to have a National Committee on Corruption and Bribery that will be able to advise the appropriate Minister in those regards.

With respect to (I am being passed lots of notes) . . . let me continue here. The Honourable and Learned Member, Leah Scott, spoke of the strength of the provision that we have here in Bermuda. And it is in some regards stronger than the US Foreign Corrupt Practices Act. Under the US Foreign Corrupt Practices Act, there is a provision for what are known as facilitation payments. So there is sort of an out clause. And both in the US, and I believe it was adopted by our neighbours to the south, the Cayman Islands, there is this out clause, what are called facilitation payments, which is a sort of nice way of saying a bribe that you pay to local officials, which are very well

known in some countries. In order to get anything done, you have to pay bribes.

And that will not be allowed. We have adopted the highest standard recommended by the OECD [Organization for Economic Cooperation and Development] in their Bribery Convention. So what we have tried to do is, wherever we have had the choice, we have adopted the tougher standard. That does not necessarily make life easier. It is a fundamental change. But I think it will be the best for Bermuda's international reputation in this regard.

The other matter that was raised by the Honourable Member, Walton Brown, with respect to consultation, that is just on the guidance notes that are going to be issued. And it is not going to take a long period of time. We already have them in draft. So as soon as this Act is passed, we will issue consultation immediately. So there will not be a drawn-out period. We already have all of that. All of that already exists in draft.

With respect to the overseas portion of what that Honourable Member was saying, we are adopting a very high standard here. And the idea of making it unlawful for Bermudian entities—and by and large, it is going to be corporations—to be potentially prosecuted in Bermuda for bribery committed in a foreign country, this again is the highest standard recommended by the OECD. And I take what the Honourable Member said about the United States, normally, you know, applying its own rules to people. But in this case, it is the OECD Bribery Convention which recommends this. And again, we have recommended the highest standard.

Now, we did not get any substantial objection to that from the alphabet companies, ABIC or ABIR or any of the other companies. We think it is not such a problem here. We think it is probably more a problem for people who are dealing in commodities, so if you are physically going to a country to buy physical things, industrial goods or commodities like oil or wheat or something like that, where every step of the way you are trying to get export permits, et cetera, you are having to pay people. Most of the international business in Bermuda is involved in some form of financial transaction and insurance. So we think the prevalence of this is probably very low here, but we will certainly keep an eye on it going into the future.

And of course, as I said before, I think the Honourable and Learned Shadow Minister alluded to this. So this Act, when it is passed, will only apply from offences which are going forward. So the old offences still exist for anything that occurs before this Act is put into place. Once this Act is put into place, it will govern for any acts committed after that date. Obviously, you cannot have retroactivity or retrospective nature for criminal offences; it is not permitted under our Constitution or law generally.

Mr. Speaker, having said that, I now move that the Bill be committed.

The Speaker: Thank you. Thank you, Honourable Attorney General.

The Attorney General has moved that the Bill be committed. Are there any objections to that? Then I ask that the Deputy Speaker please take the Chair [of Committee].

House in Committee at 12:07 pm

[Mrs. Suzann Roberts-Holshouser, Deputy Speaker, Chairman]

COMMITTEE ON BILL

BRIBERY ACT 2016

The Chairman: Members, we are now in Committee of the whole [House] for further consideration of the Bill entitled [Bribery Act 2016](#). I call on the Minister in charge to proceed.

Minister, you have the floor.

Hon. Trevor G. Moniz: Thank you, Madam Chairman. I move clauses 1 through 7.

The Chairman: Are there any objections to that? No. Please proceed.

Hon. Trevor G. Moniz: Madam Chairman, clause 1 is the citation. It is self-explanatory. Clause 2 is the definitions section.

Clause 3 creates the new general offence of bribing another person. This is a very important offence. It sets out two cases in which the offence can be committed where the briber offers, promises or gives a financial or other advantage to another person. In case 1, the briber must intend the advantage to induce a person to, or reward a person for, improperly performing a relevant function or activity. And this is the improper test I spoke of.

In case 2, the briber must know or believe that accepting an advantage itself constitutes the improper performance of a relevant function or activity. The meaning of “financial or other advantage” is left to be determined as a matter of common sense by the court or jury. “Relevant function or activity” is defined in clause 5, which we will get to. The nature of “improper performance” is defined in clause 6, again which we will get to.

Clause 4 creates the new general offence of accepting a bribe. It sets out four additional cases in which the offence can be committed. In cases 3, 4, and 5, there is a requirement that a person being bribed *requests, agrees to receive or accepts* an advantage, whether or not he or she actually receives it. This requirement must arise from the *improper performance* of a relevant function or activity.

In case 3, the person being bribed intends improper performance to arise from the request, agreement or acceptance. In case 4, the request, agreement or acceptance is itself the improper performance of a relevant function or activity. In case 5, the advantage is a reward for performing the function or activity improperly. In case 6, what is required is improper performance by the person being bribed (or another person); he or she requests it, assents to or acquiesces in it. This performance must be in anticipation or in consequence of a request, agreement to receive or acceptance of an advantage.

“Relevant function or activity” again is defined in clause 5. The nature of “improper performance” is defined in clause 6.

Clause 5 sets out the relevant functions or activities to which the bribe relates. This clause is to ensure that the law of bribery applies equally to public and to selected private functions without discriminating between the two. Accordingly, the functions or activities in question include all functions of a public nature and all activities connected with a business, trade or profession. There must be an expectation that the functions be carried out in good faith (condition A), or impartially (condition B), or the person performing it must be in a position of trust (condition C). The functions or activities in question may be carried out either in Bermuda or abroad, and need have no connection with Bermuda.

Clause 6 relates to improper performance of a relevant function. It defines “improper performance” as performance which is not carried out in good faith or which is not carried out impartially. Alternatively, *improper performance* may arise where a person in a position of trust breaches any expectation as to the manner in which, or the reasons for which, his or her function or activity will be performed that arises from the position of trust. An omission can in some circumstances amount to improper *performance*. Clause 6(3) addresses the case where a person being bribed is no longer engaged in a given function or activity, but still carries out acts related to his or her former function or activity. These acts are treated as done in performance of the function or activity in question.

Finally, clause 7 defines the expectation test for the purposes of clauses 5 and 6. The test for deciding what is expected of a person performing a function or activity is what a reasonable person in Bermuda would expect of a person performing the relevant function or activity. Clause 7(2) makes it clear that in deciding what a reasonable person in Bermuda would expect in relation to functions or activities the performance of which is not subject to Bermuda laws, local practice and custom must not be taken into account unless such practice or custom is permitted or required by written law. Clause 7(3) defines what is meant by *written law* for the purposes of this section.

The Chairman: Thank you, Member.

Are there any Members who would like to speak to clauses 1 through 7?

Yes, the Chair recognises the Shadow Attorney General, from constituency 36. The Honourable M. J. Scott, you have the floor.

Hon. Michael J. Scott: Thank you, Madam Chairman.

Dealing firstly with the first new offence in clause 3, offences of bribing another, we note, Madam Chairman and Members and too Mr. Attorney [General], that at clause 3(2)(b), I am speaking now to the intent and the *mens rea* of this offence. The provision is that where P intends the advantage to induce a person to perform improperly a relevant function or activity . . . I want to know whether the Attorney General recognises or accepts that this is a specific intent requirement? Or do we need to, as legislators, clarify this as requiring further language to make it a specific intent? That is the first question.

I envisage that in court in front of Mr. Archibald Warner, where some of this will be heard, or any of the members of the summary jurisdiction courts, nor is it going to raise the question on behalf of their clients as to whether there was an intent, or what was the level of the intent, the nature of it, and whether it is specific or not? I do not think it can be stated by us as legislators that we are making bribery, number one, a case of general intent. I think it must be specific.

And then, I want to ask the question of the Attorney General: If the defence is raised that my client had no specific intent to induce the person to perform improperly a relevant function or activity, whether the act has gone far enough in making that provision clear so that at the litigation stage or the charge stage, and in practice, this is not causing us uncertainty?

The only defences that I am able to apprehend in the Act are referred to for the purposes of companies or corporations. So that does not apply to the individual who is charged. And the defence, specific defences are raised in relation to the nature of this activity taking place, in the interest of national security, which again will not apply to an ordinary Mr. and Mrs. Bermuda. So that is my first responsibility, to ensure that we as legislators create as much clarity in the application of this important legislation. And it is pretty simple. Do we need to say *knowingly* induces the person? And do we need to craft a provision that says it is a defence for an individual to show that he or she did not intend to induce? That is on clause 1 [*sic*].

And clearly, the case—

The Chairman: That is clause 3.

Hon. Michael J. Scott: That is clause 3. Clause 3, case 2, this appears to be a case where there is no . . . I think we properly would characterise it as a strict offence, a case where I heard the Learned Attorney indicate that the offence is carried out on the commission of, on the offer or promise or the giving of, a fi-

nancial or other advantage to another person. So if the offence occurs just on the actions taking place, without any reference to the intent being there, this becomes a case of the prosecution having no requirement to prove intent, and is that the intention, that this be a strict liability offence in this segment of clause 3?

I was grateful to hear the clarification from the Learned Attorney that this is not retroactive or *ex post facto* legislation. So I am grateful for that clarification that subscribes to our Constitution at section 6. So we are grateful for that clarification.

And beyond those mechanics of how the intention is meant to apply, whether we need to do more, I am content to hear those answers and see. But otherwise, I do not think I have any further queries. Thank you.

The Chairman: Thank you.

Are there any other Members who would like to speak to clauses 1 through 7?

The Chair recognises the Independent Member. Mr. S. G. Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Thank you, Madam Chairman.

Madam Chairman, I concur with the Honourable and Learned Member who just took his seat. I am certainly interested in the answers as to whether or not this is a strict liability offence, because that stood out to me as well.

However, I know the Honourable Attorney General stated that he had highlighted the improper test. It just seems a little confusing to me, because for example, looking at clause 4, Madam Chairman, and talking about the R, which is the Receiver, the person who is receiving the financial or other gain or other advantage, when there is this qualification that the activity is performed improperly, this is where I do not quite understand it, because I would have assumed that if I am receiving a financial gain, and then I commit a public act as a result, then that in itself is the improper act. But it seems as if it goes even further, as if there is a possibility to receive a gain and not commit an improper act as a result.

So I am just not quite clear on that. And it could just be how I am reading it. But it seems like there is an additional test after one is in receipt of some form of financial or other advantage. And then, I am looking at clause 4(5), where it says, "Case 6 is where, in anticipation of or in consequence of R requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly." And I would just assume that if the activity was performed as a result of the inducement, then that by itself makes it improper and makes it an offence. But it seems as if I can perform an activity after being induced to do it, and there is a possibility that it is not deemed to be improper.

So if the Attorney General can just explain that. Because if you go to clause 4(7), and now it says, "In cases 4 to 6 it does not matter whether R knows or believes that the performance of the function or activity is improper." So again, just looking at the mechanics of one, how I saw the Bribery Act is that if someone is offering something in exchange for something, then that is improper. And if someone is receiving or asking for something in exchange for doing something of a public nature, then that in itself is improper.

But it appears on the face of it that there is another test called *the improper test*, which suggests to me that someone can receive something or someone . . . well, in the case of clause 4, it is receiving. A public official can receive something, receive an advantage and still proceed to act in a proper fashion. If the Attorney General can just clarify that for me, I would be grateful. Thank you.

The Chairman: Thank you, Members.

Are there any other Members who would like to speak to clauses 1 through 7?

Yes, the Chair recognises the Member from constituency 36.

Hon. Michael J. Scott: Thank you, Madam Chairman.

Yes, I am grateful for the speech from the Honourable and Learned Member, Mr. Crockwell, because it drew my attention to the actual case of the strict liability offence, to which I was referring the House. I did not make it as clear. It is case 4, as pointed out in the Attorney General's brief. The requestor agreement or acceptance is itself the improper performance of a relevant function or activity. And I take the point raised by the Honourable Member from constituency 31 about whether a function can at any time be performed properly and one get out of it.

There is a curious . . . well, there is not the curious. There is the interesting provision of the expectation test, which casts on a trier of fact, the magistrate or a jury, to look to the people of this country for guidance on what is regarded as an improper activity. The expected test, if I might just refer to it, for the purposes of this clause, the test of what is expected is a clause of what a reasonable person in Bermuda would expect in relation to the performance of the type of function or activity.

So it falls on the lady or man on the Somerset Omnibus view as to what we take of a public official's behaviour in testing it. I hope that this does not prove to be unmanageable or difficult to manage. I understand its drive. I do see it producing argument, of course, as to one man's meat is another man's poison. But I am sure we will get through these tests. I hope that we have introduced a test, though, that is workable in the end. Thank you.

The Chairman: Thank you.

Are there any other Members who would like to speak to clauses 1 through 7?

If not, I recognise the Attorney General.

Hon. Trevor G. Moniz: Thank you, Madam Chairman.

I thank Honourable and Learned Members for their comments there.

What we see in this Bill is an entirely new style of drafting. And, you know, in some respects you might call it "plain English," but it sets things out in cases. So here you have, you know, P the Promiser and R the Receiver. You have cases set out case-by-case. It is an entirely different way of drafting a Bill. And, of course, we had adopted this from the UK Bribery Act. It has been generally adopted. Of course, there were many raised eyebrows in our Drafting Section, saying, *Well, we don't like these new-fangled ways of doing things*. And I am pretty old-school myself. So it is pretty new to me as well. So I think some of the issue arises that it is a totally new way of looking at things.

I mean, these are not strict liability offences. They do require intention. So there is this specific element of intention there in clause 3(2)(b), for example. P intends the advantage to induce a person to perform improperly a relevant function or activity. So the mental intention still is required. It is just that it is more broadly drawn than it was in the old law. So the word "improper" is used, which is a broader word than what was used before. The old offences under the Criminal Code, the Victorian offences, were terribly technical and step by step. So people tended to try to break them down, dislocate them and say, *Well, you can't prove this because you can't add these bits up*. And this is trying to make it much more simple, particularly for laypeople, for members of the jury.

So while lawyers look at it and say, *This is a strange way of doing things*, the idea is to make it more easily understood for a jury. Because a lot of offences of this nature, being technical, traditionally juries have had a difficult time understanding them. And therefore, it has made it more difficult to convict people as a result, because the juries would just get confused.

You know, the guidance is going to be important because one of the elements that arises here is the idea of inducing people to do something improper. There are certain situations, for example, where you have corporate hospitality. And corporate hospitality is, you know, generally given to everyone. So you could say, *Well, is that hospitality meant to induce a specific person to do a specific thing to that person's advantage? Or are they just generally giving hospitality for everyone, to improve their public image?* And that is going to be important when it comes out in the guidance notice, exactly how we set that out.

And I think it is going to take a little while. In addition, we obviously are awaiting guidance from

English case law precedents. This was passed in 2010, but obviously precedents have been slow to come forward, because they must be acts which were committed after 2010. And so we are starting to get case precedents, which will illuminate how courts interpret these new types of provisions that you see in this Bill.

With respect to, I think it was clause 4 and case 4 that the Honourable and Learned Member, Mr. Crockwell, was raising . . . in case 4 we are talking about an activity which in itself is improper. But case 6 is where a function and activity is improperly performed. So, you know, you have got to be careful distinguishing between these different cases. And sometimes, it is a bit difficult to get your head around that. I have had some challenges myself because it is a new way of approaching things. So these are different routes to the offence being performed.

Improper applies in different circumstances to different activities along the chain, and represented in different cases. Having said that, Madam Chairman, those were all the questions. So I wonder if I could then move that we rise for lunch? I do not know if I can . . .

The Chairman: Perhaps it might be something that they have further questions on? And if not, then we can proceed after lunch. But I am just going to take it back to the floor for a second.

Are there any other Members who would like to speak to clauses 1 through 7?

Okay. If so, would you prefer to continue after lunch? Or would you like to get your questions in now?

Mr. Shawn G. Crockwell: That is fine. We can continue after lunch.

The Speaker: Yes. That would be fine.

Are there any objections to that motion?

No objections. We will reconvene at two o'clock. Thank you very much.

Hon. Trevor G. Moniz: Thank you, Madam Chairman.

[Gavel]

Proceedings suspended at 12:30 pm

Proceedings resumed at 2:00 pm

[Mrs. Suzann Roberts-Holshouser, Deputy Speaker, Chairman]

COMMITTEE ON BILL

BRIBERY ACT 2016

[Continuation of Committee thereon]

The Chairman: Thank you, Members. We resume in Committee with the Bribery Act 2016. We were doing clauses 1 through 7. I call on the—

Hon. Trevor G. Moniz: Correct, Madam Chairman, and I think the Honourable and Learned Member, Mr. Crockwell, had a question.

The Chairman: From constituency 31, yes.

The Chair recognises the Member from constituency 31, Mr. S. G. Crockwell.

You have the floor.

Mr. Shawn G. Crockwell: Yes, thank you, Madam Chairman.

Madam Chairman, just seeking clarity on a few matters, and I have two. And part of it I articulated earlier, but the Honourable Attorney General mentioned earlier that if you look at the various cases under clause 4, you have case 3, case 4, case 5, and case 6. I have no issue really with case 3 or case 4, though I am still looking for sort of an elaboration on what is an “improper function.”

But if you look at case 6, case 6 says “where, in anticipation of or in consequence of R requesting, agreeing to receive or accepting a financial or other advantage”—and this is [clause] 4(5) of—“a relevant function or activity is performed improperly—(a) by R; or (b) by another person at R’s request . . .”

So, again, if you look at it, there is “in anticipation of or in consequence of R”—the requestor—“requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly.” Okay? And so I still do not quite get the improper performance because . . . let us make this sort of empirical here. If I as a Minister am requesting something from someone and I am saying *In exchange for this I am going to do that*, that, to me, no matter what it is, is improper because I am being induced to do it or I am asking for a reward in order to do it.

But there is a further qualification that says “a relevant function or activity is performed improperly.” But then, if you go on to [clause] 4(7) it says here, “In cases 4 to 6”—so we are still dealing with 6—“it does not matter whether R knows or believes that the performance of the function or activity is improper.” So this is a strict liability component here, so whether or not . . . if the Minister thinks that it is a proper function, but it turns out to be an improper function, what he believes or what she believes is irrelevant. All right? It does not matter.

So this aspect is certainly strict. And so it sort of begs the question, because under clause 3 we heard earlier, and it is clearly set out, that intention is a component. So if you look at [clause] 3(2)(b) “P intends the advantage” to do something. So you can have a situation where someone comes to a public

official but does not have the intention to induce or to have that person do something improper, but the receiver now is getting that advantage. And then under case 6, whether or not he believes that the activity is improper, it is strict liability there.

I understand that this is sort of novel, it just seems a bit convoluted. And I just do not understand particularly how the improper function works, the improper performance works. You see this all throughout clause 3 and clause 4 “to reward a person for the improper performance.” So it means that there . . . it suggests to me that there could be an exchange of a reward, but if the activity is deemed to be proper then there is no offence. That exchange for the reward, whether it is from the promiser or whether it is from the receiver, you know, there has to seem to be some element of improper conduct.

To me, if we are going to be passing legislation that is going to create significant penalties it needs to be clear. And I am just not quite clear on what constitutes something being improper.

I would think that if I go to a Minister in Government and I say, *I am going to give you, you know, free nights in my establishment whenever you want and all I want in return is a concession order*, that concession order could very well be deemed proper, it could very well lead to a development that is beneficial to the community. But is that exchange unlawful? And I would say yes. I would say that is the whole point of doing this. And we do not want people to be offering advantages and financial goods in exchange for something else.

We want our parliamentarians and our public officials to have complete and total impartiality, but it is not clear here because it sounds like there is a possibility of doing something which is deemed proper irrespective of any gain, and something that is deemed to be improper in relation to some form of exchange.

The Chairman: Thank you very much, Member.

Are there any other Members that would like to speak to clauses 1 through 7?

The Chair recognises the Minister.

Hon. Trevor G. Moniz: Thank you, Madam Chairman, and I thank the Honourable and Learned Member for his comments there.

I am going to go into a little bit of background on this one because I think it is something that occurs throughout this piece of legislation. As I mentioned in the general debate, the UK Bribery Act itself which was passed in 2010 was passed after years of deliberation. There were years of reports. And going back to 1998 there was a report on corruption; in 2003 there was a draft anti-corruption Bill which was not passed; in 2007 there was another consultation paper; in 2008 a final report and draft Bill; and it was 2010

when the Law Commission draft Bill was largely incorporated into final legislation.

So a lot of this came out of the Law Commission in the UK studying, and they were studying for years and years where the old law fell down. And the old law fell down because there were too many bits and pieces. It was too technical, so defence attorneys could always go in and say, *Aha! You haven't quite got this*, or *Aha! You didn't get that little bit there*. And it was too technical and it was difficult for juries to understand. Therefore, it was easy for defence attorneys to get juries to throw their hands up and say, *Well, we don't know so we're going to let this guy off*.

So the idea of this new way of proceeding is to make it simple and to make it understandable by juries. So earlier we discussed in clause 3 where the person P does something to induce someone to do something to give some advantage, he intends an advantage.

Now with respect to clause 4, and, in particular, what causes my honourable and learned friend some concern is the idea of “improperly.” And in clause 4, if you look at subclause (7) it says “In cases 4 to 6 it does not matter whether R knows or believes that the performance of the function or activity is improper.”

Now, the reason for that is if you left it to people themselves you get very narcissistic, very dishonest people who honestly do not perceive that what they are doing is wrong. So they may perceive that they are giving some advantage, they have been asked to do something. They are doing it, but they may insist, *Well, I didn't see anything wrong with that*. And that . . . you know, they might be able to convince the jury that it was their view.

But under this law it is a deeming provision that if you give some . . . someone comes to you for an advantage, they give you some inducement, and then you give them that advantage, it is deemed that that is improper. So it does not depend upon people being blind to their moral or ethical obligations. It was always too easy for people to go to court and their defence was, *I didn't know any better. I didn't know that I shouldn't be taking bribes. I didn't know that I shouldn't be giving people advantages for getting gifts*. Or, you know, the rest of it. So this is to make the ambit of it broader.

Now to all of us here, it is new to all of us, so you know, as it is new to my honourable and learned friend it is new to myself. It is new to all of us. And in British law it is relatively new, six years old. And as I said earlier, we are starting to get cases through interpreting these portions of the Act, so I think the proof of the pudding will be in the eating. But as I said earlier, the recommendations we followed have very much come out of the UK Law Reform Commission and out of the OECD Convention on Bribery. So we are trying to lift ourselves to the highest standard in what we are doing here. And I hope that assists.

Thank you, Madam Chairman.

The Chairman: Thank you.

Are there any other Members that would like to speak to clauses 1 through 7?

The Chair recognises the Member from constituency 36.

Hon. Michael J. Scott: Thank you.

I am going to just conclude. And I am aware that the Director of Public Prosecutions must give his fiat to a prosecution and I know . . . my question that I did ask the Learned Attorney [General], whether we need to introduce an expressed defence for the individual. I suppose we are going to pass onto the DPP the responsibility, when viewing a file, to look at the defendant's defence and perhaps the matter can be resolved there.

But as the Learned Attorney [General] has indicated . . . I mean offering and promises are a native, common part of our parlance in contract law. Giving . . . it is nearly December the 25th. The whole concept of giving has been part of . . . on anthropological studies, giving has formed societies and informed societies down through the ages. Some regard the idea of giving as the beginning of capitalism. So these are the issues, the knotty issues, that are going to be faced in the courts. And giving with the expectation of reciprocity, getting a gift back . . . gift clubs. You give money to your gift club, you know, and you expect a return. Tribal . . . there are tribes that would give a gift to the king and they would expect the king to administer justice for them. I mean there are these kinds of issues that I know will begin to bedevil some of these concepts that we are trying to render now as unlawful bribery actions.

So perhaps we are at the beginning of this where we are going to have to wait for the case law here, as well as internationally. But as my honourable and learned colleague, Mr. Crockwell, has been pressing for, he is trying to work it through his legal mind as all lawyers are going to. And I suppose . . . may I just end by saying that the consultation to Mr. Attorney [General] with the Criminal Defence Bar, and I accept what has taken place, and perhaps there needs to be more consultation on the guidance notes with them so that when we are in front of the summary court judges a breakfast is not made of these provisions on the first outing of this Act being charged against by the corporations or in the citizens of the country.

Thanks.

The Chairman: Thank you, Member.

Are there any other Members that would like to speak to clauses 1 through 7?

There are no other Members.

Attorney General, if you would move that clauses 1 through 7 be approved.

Hon. Trevor G. Moniz: Thank you, Madam Chairman.

I so move that clauses 1 through 7 be approved.

The Chairman: Is there any objection to moving clauses 1 through 7 to be moved as printed?

No objections.

[Gavel]

[Motion carried: Clauses 1 through 7 passed.]

The Chairman: Attorney General, please continue.

Hon. Trevor G. Moniz: Madam Chairman, maybe I could move clauses 8 through 17.

The Chairman: It has been proposed that clauses 8 to 17 be moved.

Any objections to that motion?

No objections. Please proceed.

Hon. Trevor G. Moniz: I am obliged, Madam Chairman.

Clause 8 creates an offence of bribing a foreign public official. This offence arises from requirements under the OECD Convention on Bribery. Bribing a foreign public official covers the offering, promising or giving of bribes, and not the acceptance of them. The person giving the bribe must intend to influence the recipient in the performance of his or her functions as a public official and must intend to obtain or retain business or business advantage. No offence is committed where the written law applicable to the foreign official permits or requires him or her to be influenced by the offer, promise or gift.

[Clause 8](7) expands upon written law. "Foreign public official" is defined expansively in [clause 8](5) to include individuals holding any legislative, administrative or judicial position for existing public functions for and on behalf of a country or territory outside Bermuda. It also includes officials or agents of a public international organisation.

Clause 9 creates an offence for a relevant commercial organisation to fail to prevent bribery as set out in that clause, subject to a defence that the organisation had in place adequate procedures to prevent associated persons undertaking such conduct. The offence is committed where a person who is associated with the commercial organisation bribes another person with the intention of obtaining or retaining business or an advantage in the conduct of business for that organisation. Clause 10 sets out who is associated for the purposes of this offence.

[Clause 9] (3) provides that "bribery" in the conduct of this offence relates only to the offering, promising or giving of a bribe contrary to [clauses] 3 and 8. There is no corresponding offence of failure to

prevent the taking of bribes. Applying ordinary principles of criminal law the reference to offences under [clauses] 3 and 8 include being liable for such offence by way of aiding or abetting, counselling or procuring the secondary liability. The prosecution will show that the person would be guilty of the offence were that person prosecuted under this Act, through actual prosecution and conviction is not needed. Relevant commercial organisation includes corporate bodies formed in Bermuda, corporate bodies doing business in Bermuda, and various forms of partnerships. There is no need for the person bribing to have a close connection to Bermuda, as defined in clause 18, rather so long as the organisation falls within the definition of “relevant commercial organisation” that should be enough to provide courts in Bermuda with jurisdiction.

Madam Chairman, clause 10 defines “associated person” for the purposes of clause 9. Such person is associated with a relevant commercial organisation if he or she performs services for or on behalf of that organisation, whether as an employee, agent or subsidiary. The question of association relates to the actual activities being undertaken by such a person rather than the person’s capacity within the organisation. Where the person being prosecuted is an employee, he or she is to be presumed by performing services for or on behalf of the relevant commercial organisation unless the contrary is shown.

Clause 11 requires the Minister to publish guidance about procedures that relevant commercial organisations can put in place to prevent persons from bribing as mentioned in clause 9(1). [Clause 9](3) requires a court to consider whether an organisation followed any such relevant guidance in determining whether it has committed an offence under [clause] 9 (as is similarly required by section 49M of the Proceeds of Crime Act 1997 in relation to guidance about money laundering, et cetera). The Ministry intends to publish and draft such guidance prior to commencement as part of its continued commitment to stakeholder consultation.

Clause 12 requires a public official (broadly defined to include public officers, Members of the Legislature, persons appointed or elected to any municipality, parish council or any other public authority, and other persons carrying out any function of a public nature) who is offered or receives a bribe to disclose that fact as soon as reasonably practicable. Such persons are also required to disclose a reasonable suspicion that a person has committed, is committing or is about to commit an offence under the Act or under section 33B of the Public Treasury (Administration and Payments) Act 1969 (these are offences of collusion relating to government contracts). Disclosures are to be made to a police officer and, if the official’s employer has established a procedure for making such disclosures, in accordance also with that procedure.

Clause 13 creates an offence of failing to report bribery as required by clause 12. [Clause 13](2) allows a defence where an accused person can prove that he reasonably believed disclosure may cause serious physical harm to himself or another person.

Clause 14 creates an offence of taking action harmful to a person, including interference with a person’s employment or occupation, on the ground that the person has made or may make a disclosure under clause 12.

Clause 15(1) requires the consent of the Director of Public Prosecutions for a prosecution of an offence under the Bill. [Clause 15](2) provides a three-year time limit for the bringing of summary proceedings for an offence under the Bill.

Clause 16 sets out the penalties for the new offences. As the offences are all indictable they will fall within the definition of “relevant offence” and so constitute “criminal conduct” for the purposes of the Proceeds of Crime Act 1997. And you see in the section there is a fine not exceeding \$500,000 or to imprisonment for a term of 10 years or both, and on conviction on indictment to an unlimited fine or an imprisonment of 15 years or to both. So the first was summary conviction, the second is conviction on indictment.

Clause 17 provides for forfeiture of property relating to a bribery offence (based on section 48A of the Proceeds of Crime Act 1997).

Thank you, Madam Chairman.

The Chairman: Thank you.

Are there any Members that would like to speak to clauses 9 *[sic]* through 17?

There are no Members that would like to speak to clauses 9 *[sic]* through—

An Hon. Member: [That is] 8 through 17.

The Chairman: Sorry, clause 8, thank you. I am corrected, clauses 8 through 17.

The Chair recognises the Attorney General.

Hon. Trevor G. Moniz: Thank you.

Madam Chairman, I would move clauses 8 through 17.

The Chairman: It has been moved that clauses 8 through 17 be passed as written.

Any objections to that motion?

No objections.

Agreed to.

[Gavel]

[Motion carried: Clauses 8 through 17 passed.]

The Chairman: Attorney General, please proceed.

Hon. Trevor G. Moniz: Madam Chairman, I would then move clauses 18 through 25.

The Chairman: It has been moved that clauses 18 through 25 be moved.

Any objections to that motion?

No objections.

Please proceed.

Hon. Trevor G. Moniz: Thank you, Madam Chairman.

Clause 18 provides for the application of the Bill to offences committed wholly or partly outside Bermuda by Bermudians, permanent residents of Bermuda, individuals ordinarily resident in Bermuda, and bodies corporate or partnerships incorporated, formed or registered under the law of Bermuda.

Clause 19 provides a legitimate purpose defence relating to national security for certain bribery offences.

Clause 20 is a standard provision relating to offences committed by a body corporate with the consent or connivance of a senior officer. It ensures and deals with that sort of offence.

Clause 21 deals with the prosecution of offences under section 9 committed by partnerships. Such proceedings must be brought in the name of the partnership and not the partners themselves. Certain rules of court and statutory provisions, which apply to bodies corporate, are deemed to apply to partnerships. And any fine imposed on the partnership on conviction must be paid out of the partnership assets.

Clause 22 establishes the National Anti-Corruption and Bribery Committee (NACAB Committee) and sets out its functions of advising the Minister regarding the effectiveness of bribery legislation and policy. The NACAB Committee is required to review the effectiveness of the legislation and report within five years of commencement. The Minister, in turn, is required to make a report to both houses of the Legislature. The review function is mandated by the United Nations Convention Against Corruption and is meant to ensure that new legislative tools to prevent bribery and corruption are actually being properly used to carry out their stated purposes.

Clause 23(1) confirms that the Bill applies in relation to offences committed wholly on or after the commencement date. [Clause 23](2) provides that no person shall be charged with any of the existing bribery offences (listed in Schedule 1 as the "superseded offences") committed wholly on or after the commencement date.

Clause 24(1) introduces Schedule 2 which makes consequential amendments, including providing expressly in each of the superseded offences that no person shall be charged with the offence if committed wholly on or after the commencement date. Clause 24(2) and (3) empower the Minister to make, by order subject to the affirmative resolution procedure, such further supplementary, incidental or con-

sequential provision as he considers necessary for the purposes of the Bill or in consequence of the Bill.

The Chairman: Thank you.

Are there any other Members that would like to speak to clauses 18 through 25?

The Chair recognises the Member from constituency 36.

Hon. Michael J. Scott: Thank you, Madam Chairman.

So, Mr. Attorney [General], I am trying to understand the application of the territorial application. Do I understand it correctly that in cases where a bribery proposition occurs by a Bermudian outside of this Island, is there a requirement that the Bermudian returns to this country? Is that a requirement before a legitimate prosecution can be made? I know it is not there, but I have tried to read [clauses] 18(2) and (3) correctly, but that is a question that presents itself to my mind about outside of Bermuda offences. So that is the question on [clause] 18.

I am sure . . . and I think that is my only query. Yes, thank you.

The Chairman: Thank you.

Are there any other Members?

The Chair recognises the Member from constituency 31.

Mr. Shawn G. Crockwell: Yes, thank you, Madam Chairman.

Madam Chairman, in relation to [clause] 23 as it refers to Schedule 1, and Schedule 1 is the Superseded Offences, you will see . . . and superseded just means it is replacing all of these other offences which are analogous to corruption. And you will see under the Criminal Code Act 1907, section 111 is official corruption, and it goes on, judicial corruption, et cetera.

My question to the Attorney General is, Will this legislation be the legislation for all types of public or government corruption? And, if so, would you deem . . . because I do not want to pre-empt a future debate, but I am just trying to ascertain whether or not this is the Act that covers and deals with any form of corruption, and any other attempted clause or section of any other Act that deals with corruption will be, basically, superfluous.

The Chairman: Thank you, Member.

Are there any other Members that would like to speak to clauses 18 through 25?

The Chair recognises the Member from constituency 17.

You have the floor.

Mr. Walton Brown: Thank you, Madam Chairman.

Madam Chairman, I am still struggling to understand clause 18. Our Constitution and this Legislature pass laws that are applicable in Bermuda. This is

the jurisdiction for which our legislation applies. I cannot understand how an act performed by a Bermudian in another country can become a legitimate actionable matter for the DPP in Bermuda or the courts. It is outside of our jurisdiction. I would think that those actions are covered by the laws of another country. I just cannot understand how this Parliament even has jurisdiction to pass a law here that applies to the action of a Bermudian who might be living in Singapore. I do not understand that. And I am not a lawyer, I am happy to take guidance, but I need elucidation on this point.

Thank you.

The Chairman: Thank you, Member.

The Chair recognises the Member from constituency 25.

Mr. Mark J. Pettingill: Thank you, Madam Chairman.

I just need to . . . in looking at it, joining with my honourable and learned friend, Mr. Crockwell, in relation to his question there, because I am well familiar with the Bribery Act in other jurisdictions and what has been done. And, certainly, it was something that was started under my tenure as Attorney General, but I do, however, have a concern, and I have raised this before, that we are doing things all over the place and we have a long legislation now.

This today, in my view, is really a very onerous . . . I am not saying that is a bad thing. But Members need to be aware of that. Anybody that is going to run for politics needs to be aware of that and anybody who is in political office needs to be aware of that, that this is onerous. And as it was put to me when I met with members of the FCO [Foreign and Commonwealth Office] and Lord Brown a couple of years ago in relation to the UK Bribery Act, he said, *Don't have a sandwich from anybody. For heavens' sake, don't have dinner.* So just understand how onerous it is like moving forward.

But the question becomes this, if this is it, this should be it. I am not going to foreshadow what is coming later, but there is an issue there, and I think there needs to be some clarity. I know that the Learned Attorney General has spent a lot of time and effort—that is why he is dealing with this today—in putting this together and bringing it forward to the jurisdiction in the form that it is in.

And the Attorney General and the Attorney General's Chambers have done that. And I think that we need to understand and appreciate—is this it? Because in my respectful view it should be it, and you should not have dribs and drabs of areas of potential bribery or corruption all over the place. So I do kind of . . . I foreshadow that, I am not crossing a line, but it is a concern I certainly I have. I was not going to raise it today, my honourable and learned friend, Mr. Crockwell, has raised it and I am following suit with it because I certainly raise it and it may come out later as a concern.

The Chairman: Thank you, Member.

Are there any other Members that would like to speak to clauses 18 through 25?

There are none.

I call on the Attorney General.

Hon. Trevor G. Moniz: Thank you, Madam Chairman.

Again, I thank the Honourable and Learned Members and also the Honourable Member, Mr. Walton Brown, for their comments.

To some extent this is breaking some new ground, Madam Chairman, with respect to bodies that are connected with Bermuda being able to be prosecuted for acts which are committed in a foreign country. It is breaking new ground for us, but it already exists in the UK Bribery Act. So in the UK Bribery Act if someone were to do something here they could be charged under the UK Bribery Act. And this is where the international conventions are going now, both under the United Nations Commission against Corruption and the OECD Bribery Convention. They are going to extra jurisdiction responsibility in terms of prosecutions. So we are still following what other countries are doing, particularly the UK, but it is new territory. I am not going to try to pretend that it is not.

I think the Honourable Member, Mr. Crockwell, raised a question. He started off with respect to, I think it was clause 23 of the Bill, referring to the Schedule. And you know the idea is that this Act will be the umbrella act for all bribery offences on or after this date. That is the idea of it. So that all the old offences under the Criminal Code are superseded offences, so we are moving into a new territory with this Act.

I think I spoke to the Honourable Member, Mr. Walton Brown's, concerns saying, you know, so this is new territory for Bermuda but the UK has extra jurisdiction effect and the Foreign Corrupt Practices Act of the US does as well. So what a US citizen does in Nigeria can be a crime in the US. So this is becoming the rule of the day. So the OECD are really following what the Americans have done and the UK under that are doing that.

I think that only leaves with respect to the Honourable and Learned Members, Mr. Crockwell and Mr. Pettingill. They both raised the issue, and although I do not want to anticipate debate on another Bill which we may be debating later on today, but you know while this is the umbrella act there have been wishes expressed by certain statutory organisations that their organisation have certain belt and braces approach in terms of protection. And so you may see provisions of other Bills which may appear at first sight to overlap with the provisions of this Bill. And I do not want to say any more than that at this point, Madam Chairman.

The Chairman: Mm-hmm.

Hon. Trevor G. Moniz: I do not know if there are any further questions.

The Chairman: Thank you.

Are there any other Members that would like to speak to clauses 18 through 25?

The Chair recognises the Member from constituency 31.

Mr. Shawn G. Crockwell: Yes, thank you, Madam Chairman.

Mr. Chairman, I appreciate the Honourable Attorney General's response. I have gotten to know him fairly well over the years and he is nimble on his feet. And I appreciate that, you know, you are going to want to have sort of a belt and braces approach in certain situations.

But if this piece of legislation is superseding, and you will see this in Schedule 1, it is superseding numerous sections of numerous Acts—the Criminal Code Act, the Quarantine Act, the Parliament Act, Marine Board Act, Legislature [Act], Rehabilitation of Offenders [Act], Parliamentary Election Act, the Companies Act, Internal Audit Act, Justice Protection Act, the Referendum Act. So those sections are no longer operative in those Acts. They have been superseded; they have been replaced now by the Bribery Act. So why in the world would the Attorney General's Chambers put a bribery provision in a subsequent Act going forward? It just does not make any sense. You know this is the Act.

So, you know, to do it in a subsequent Act must, in my view, have another motive, Madam Chairman, because if we are going to supersede multiple pieces of legislation, multiple sections which allude to or deal with corruption, bribery, corrupt practices, then to insert it into a future act does not quite make any sense. Because then, you know, in essence it would be superseded by this Act at the end of the day. So I just raise that. I accept the Attorney General's position, but it just does not seem to make much sense.

The Chairman: Thank you, Member.

Are there any other Members that would like to speak to clauses 18 through 25?

There are none.

I call on the Attorney General.

Hon. Trevor G. Moniz: Again, I thank the Members for their questions. I do not think I can assist any further with any further comments, so I would move that those sections 18 through 25 be approved.

The Chairman: It has been moved that clauses 18 through 25 be approved as printed.

Are there any objections to that motion?

No objections.

Agreed to.

[Gavel]

[Motion carried: Clauses 18 through 25 passed.]

Hon. Trevor G. Moniz: I would move Schedules 1 and 2.

The Chairman: It has been moved that Schedules 1 and 2 be approved as printed.

Any objections to that motion?

No objections.

Agreed to.

[Gavel]

[Motion carried: Schedules 1 and 2 passed.]

Hon. Trevor G. Moniz: I move the Preamble.

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

Any objections to that motion?

No objections.

Agreed to.

[Gavel]

[Motion carried: Preamble passed.]

Hon. Trevor G. Moniz: 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.

Any objections to that motion?

No objections.

Agreed to.

[Gavel]

Hon. Trevor G. Moniz: Thank you, Madam Chairman.

[Motion carried: The Bribery Act 2016 was considered by a Committee of the whole House and passed without amendment.]

House resumed 2:37 pm

[Hon. K.H. Randolph Horton, Speaker, in the Chair]

REPORT OF COMMITTEE

BRIBERY ACT 2016

The Speaker: Honourable Members, the second reading of the Bribery Act 2016 has been approved.

Any objections to that?

There are none.

So we now move on to the second reading of the St. George's Resort Amendment Act 2016 and that is in the name of the Junior Minister of Tourism, Kenneth Bascome.

You have the floor.

BILL

SECOND READING

ST. GEORGE'S RESORT AMENDMENT ACT 2016

Hon. Kenneth (Kenny) Bascome: Good afternoon, Mr. Speaker, and Honourable Members.

The Speaker: Good afternoon.

Hon. Kenneth (Kenny) Bascome: I move that the Bill entitled the St. George's Resort Amendment Act 2016 be now read the second time.

The Speaker: All right. Thank you.
Are there any objections to that?
Please carry on.

Hon. Kenneth (Kenny) Bascome: Mr. Speaker, and Honourable Members of this House, I am pleased to introduce the Bill entitled the St. George's Resort Amendment Act 2016, which seeks to amend the St. George's Resort Act 2015.

Although I will [delve] into the specifics of the changes to this Act in more detail during the Committee stage, I thought it would be prudent to highlight a few of these changes during my presentation.

Mr. Speaker, you may recall the recent approval plans of the Desarrollos Hotelco Group for 1,214 or 743 acre property located at the site of the former Club Med Hotel in St. George's. These plans will include a 122 room St. Regis Hotel, a spa, a fitness centre, swimming pool, a beach club, tennis court, pool, bar and grill, a renovated St. George's golf course, golf villas, meeting room, a specific restaurant, residential condominiums, buildings and a casino.

This is an exciting time for the Town of St. George's and, as such, the Ministry has continued to work with the developers to ensure this development comes to fruition to make this a win-win for all involved. To that end, as mentioned previously, certain amendments to the original Act are required to ensure the development becomes a reality.

Against that brief backdrop, Mr. Speaker, it is proposed that section 2 of the Act be amended to increase the freehold land area from 0.43 acres to 1,258 [sic] acres. For some unknown reason the lots to be conveyed to the developer as freehold land were not specified in the property plans as lot number 15 instead of "condo lot." For fractional purposes, as was

agreed during the negotiations of the MDA, this agreement is required to take into account the new area of freehold land that is designated as Lot 5 in accordance with the Act. These amendments are reflected in Schedule 5 of the amendment Bill.

Mr. Speaker, the Bill also seeks to amend section 3 of the Act to include a provision to enable the Minister to vary any of the terms, excluding the terms of years, of any of the lease land granted at the request of the developer as approved by the Minister to facilitate the development. This amendment is proposed to avoid having to make substantive amendments to the Act when there are mutual agreement variations upon parliament being in session. An example could be a change of plans to permit a tennis court from one area to another. In the event that the lease between the developers and the government is terminated, the government will have the ability to enter into a direct landlord/tenant relationship for the balance of the term with any sub-tenant that is party to a lease within the developer or its successor in title. Purchases of long lease from the developer in succession to title will require that the comfort in order to make a significant investment in terms of the premium payment that will be payable on execution of a long-term lease.

Mr. Speaker, section 3(2) is amended by inserting that any subsequent variation of the area demised by such leases shall not effect a deemed surrender and regrant of such lease after the word "property." This is important, Mr. Speaker, as with any variation of the area of land demised by the lease has been interpreted in common law as the lease being surrendered thereby triggering in practice natural progression a regrant on a new lease with the new description of the property. This would prove problematic for a lender as this could impact the lender's security. Therefore, an amendment is proposed to negate the effect of the common law.

Mr. Speaker, as relating to the Department of Planning [DOP] it is proposed to amend section 4(1)(e)(iii) and (iv) to include wording that makes the requirements from a Traffic Impact Assessment and an Environmental Impact Assessment something that is at the discretion of the Development Applications Board [DAB].

The Department of Planning has proposed to give the developers and Board the flexibility to consider phases of this project and to approve them without an assessment, Traffic, et cetera, if one is not needed. The problem is if the developer comes forward with an application to, for example, develop some of the residential lots independently of the hotel. The Board may need a full EIA or TIA in order to make a decision on such an application. A blanket requirement for these assessments forces the developer to undertake work that is not necessary that neither the developer nor the Board need or want.

Mr. Speaker, section 5 of the Act relates to Planning permission to subdivide land. It is also proposed to amend this provision to permit the developer to submit draft plans of subdivisions pursuant to the provision of section 35B(2) of the Development and Planning Act 1974, providing that any such amendment shall be subject to the prior approval of the Department of Planning.

Mr. Speaker, a further bit of housekeeping will now seek for section 7(4) of the principal Act amended by deleting reference to “Fort William” (better known as Gunpowder Tavern). This fort never formed part of the MDA of the property plan.

Mr. Speaker, it is anticipated with these amendments to the Act that the Desarrollos Hotelco Group, who finalised the ground lease earlier this year that paved the way for the ground breaking of the \$151 million St. Regis Luxury Hotel, will be able to stay on course to break ground in early 2017 on the second new hotel to the Island in over 30 years. The development is expected to generate construction jobs in the near future as well as expanding opportunities that will avail themselves upon completion of the construction work in 2019.

Thank you, Mr. Speaker.

The Speaker: All right. Thank you, Honourable Member.

Any other Members care to speak?

The Chair will first recognise the Honourable Member who is the Deputy Leader of the Opposition, MP Walter Roban.

You have the floor.

Mr. Walter H. Roban: Thank you, Mr. Speaker. I am just making sure the [microphone] is on.

Thank you for the opportunity to contribute on behalf of the Opposition. Obviously, I am holding for the Shadow Minister of Tourism Mr.—

The Speaker: Simmons.

Mr. Walter H. Roban: —Mr. Simmons on this matter, Mr. Speaker.

I found the presentation of the Junior Minister for Tourism very interesting, Mr. Speaker, in that it appears as if this is being brought to bring some refinement to the original Bill and make some changes which it is felt is necessary for the purposes of the developer, namely, the increase of the hectares. The Honourable Member did say 1,250 acres and that was puzzling, but I note that that—

The Speaker: He meant one point two.

Mr. Walter H. Roban: It is 1.250. So it was a little puzzling at first, but I note that it actually . . . when you read the Bill it is 1.25. And it seems to give the Minister some latitude with varying the terms of the Bill,

which essentially empowers the lease agreement to make changes on behalf of the developer that are to ensure that the development comes about.

We have some questions, Mr. Speaker, as it relates to this, and also amendments that relate to, I guess, some of the changes that have been made to the Companies Act and the Limited Liabilities Companies Act that have been made since this actual Bill was actually first tabled. So we understand those are technical changes that are to align this Bill with certain subsequent changes. But there are some questions, I think, and I am sure my other colleagues who are here will also have questions.

I note, Mr. Speaker, there seems to be quite an effort by the current Government to do what is necessary to make sure that this particular development comes about. And we respect that. We understand that a lot has been put in place by this government to make sure that this St. George’s hotel development comes about. But I do think that there are other questions that have to be answered as to (and I am not sure if the Junior Minister answered this) this increase in acreage. Is that going to be attached to certain changes that have been made to the plan that have already been filed at the DAB? Or is this to accommodate some future changes or future development that the developer wishes to bring about?

Also, we note that there are also some issues here in relation to the need for certain assessments. They are changing in this Bill, Mr. Speaker, the need for an Environmental Impact Assessment, which, ironically, up until recently, there was a prevailing view coming from the Ombudsman and even some outside groups, that these sorts of assessments to a particular project of this magnitude should be mandatory. But we find here, Mr. Speaker, that they are going to be putting it at the discretion of . . . that they are discretionary, whether it be by the Minister or by the DOP or by the DAB. I think we have to ask the question, Is that advisable with the magnitude of this sort of project and the vast amount of acreage that is involved, that making an Environmental Impact Assessment or other assessments sort of discretionary is in the best interests?

We have heard recently, Mr. Speaker, that some digging is being done up there for archaeological purposes, which is because of the historical nature of the land up there where that has been designated to be a part of this project. Well, we are concerned as well [about] these particular evaluations that are being done, what if later on as they are doing actual construction, things are found? Will the same requirement . . . even though they seem to be going ahead and doing some ahead of time, what if some digging or some excavations done later on discover something. Will these changes being made remove the requirement for the appropriate assessments to be done at that time? Because it argued by having mandatory environmental and other assessments to be included

ensures that a level of protection of what is the interests of the wider community when it comes to the environment.

This is a vast development, Mr. Speaker, and so making certain things suddenly more discretionary does bring some concern as we go along. As the development goes along, if we find that there are things that have not been discovered initially, will the same due diligence be required of the developer going forward? So, that is one question that I would like to see the Junior Minister answer, perhaps to bring a level of comfort to the people of St. George's who are very much interested in this project and certainly should be reassured that irrespective of what happens . . . because we have yet to see the development finally take off.

You know, all of this is happening now. We have not seen any shovels in the ground, as was promised by the Government, which is fine. Things do not always go the way you want. And I think, perhaps, they are finally beginning to learn that, Mr. Speaker. But it should be appreciated that the concern that many have for the ultimate impact this development has to St. George's, whether it be from an environmental standpoint, cultural, historical standpoint is still very much on the minds of the persons who are down there. So when these changes like this come, they are of interest. And it is important that outside of what appears to be general housekeeping from this Bill, i.e., attached with other legislation, adding additional hectares to . . . as it was to doing this development, it is important that that reassurance is given.

I am going to at this point (because I believe there are other members of my team that have something to say on this) sit down and deal with any other specifics when we get into Committee. But we do on this side appreciate because we do not want it to be in any way portrayed that we are somehow against this project, that we are against the need for refinements that come, because fine, when the Bill was initially done there were things that were not anticipated and this Bill appears to be trying to attend to some of those modifications, Mr. Speaker.

But as there has been minimal, I would say, contact between the developers and the St. George's community and the country as a whole as to knowing exactly what we are going to see happening down at St. George's, I think it is important that when the Government comes here that they make it clear, that they bring reassurance, and ensure that the public as well as this House is certain that what is being done is in the interests of St. George's, it is in the interests of this particular project coming to fruition that was going to complement everything that is desired as we begin to evolve in this journey that we have with tourism in particular.

So I will allow others to contribute to the debate, noting that we are generally supportive of the

intentions, but we think that there are questions that must be answered, Mr. Speaker.

Thank you.

The Speaker: All right. Thank you, Honourable Member.

Any other Honourable Members care to speak?

ANNOUNCEMENT BY THE SPEAKER

HOUSE VISITOR

The Speaker: The Chair will now recognise the Honourable Member—just before you start to speak, Honourable Member, I just want to recognise the Minister of Tourism, Senator Fahy, is here.

[St. George's Resort Amendment Act 2016, Second Reading debate continuing]

The Speaker: And I will now recognise the Honourable Member from constituency 5, MP D. V. Burgess.

You have the floor.

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

Mr. Speaker, this Bill is, as the Deputy Leader has said, almost like housekeeping. But there are some major things in here that should have been in the first Bill. For example, increasing the acreage by two acres. Even though when we were doing the agreement with Bazarian we had it in, they are putting it in now. You know, we have no objections to it because that piece of property was always there.

But Mr. Speaker, I am concerned about this Bill where if the developer gets in trouble and defaults then the Minister can make the decision to pass it on to another developer without even coming back to this House. That should not be. That should never be, because if this developer fails, then it has got to go through the procedures. That is what should happen.

This is land that we are letting go for 262 years. Now, that even concerns me because in the first Bill it was for 131 years and they had the option to renew if they are here for another 131. But this Bill takes it right to 262 years. What is it for? To me that does not make any sense. They are not going to be around, you know. It makes no sense.

And Mr. Speaker, this Environmental Impact Assessment not being mandatory even for Traffic, not being mandatory . . . Mr. Speaker, as this Bill states if, for example, their construction is started—they are carrying on, and they find some historical effects they do not have to stop. Mr. Speaker, it would seem to me that that would put us in a jeopardy of losing our certification as being a UNESCO—

An Hon. Member: World Heritage Site.

Hon. Derrick V. Burgess, Sr.: (Thank you, cousin)—World Heritage Site.

That is what that would do. And I think they are down now to say, *Well, we tried it and we've done this before, now we will start this so we can keep going.*

But Mr. Speaker, I am very much concerned about it. I am concerned about even the traffic because as we all know, all those roads in St. George's are very old, very old. Even the Junior Minister will tell you that. And from what I can recall, what was said up here, they are thinking about using Duke of Kent Street, but that is a very narrow street. From the entrance of that Duke of Kent Street coming from the supermarket is very congested daily. So then you can imagine large trucks and whatever has got to go up that hill. There are old houses on that street and it is a very narrow road.

That, to me, would not be the ideal spot for that. The ideal place would be to go over the Barry Road, the Barry Hill Road. And where our intent was to make it one way, particularly when you are travelling . . . when the heavy equipment is being used and being on the northern side of that road because Duke of Kent, as I said, is a very, very narrow road, Mr. Speaker, and we should not . . . I do not think that is the place we should be using, Mr. Speaker.

Again, Mr. Speaker, I really am concerned about the Environmental Impact Statement and the Environmental Traffic Statement. Those things need to stay mandatory. You know, we are just giving away everything. We are putting those . . . I do not think any consideration is given to some of those houses. I know at least one of those houses on that street is over 100 years old. And a lot of those old houses do not have belts on them. That is one of the things that strengthens the house, and you can imagine the vibration, what would happen to places like that. Hopefully it will not happen, but we do not need to take that chance either, Mr. Speaker.

So with that, Mr. Speaker, I take my seat. Thank you.

The Speaker: All right. Thank you, Honourable Member.

Any other Honourable Member care to speak?

Yes, the Chair would recognise the Whip from St. George's [*sic*], I believe—

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

The Speaker: —St. David's, constituency 3.

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

I have to rise and speak on this because being an East Ender anyone would know the importance of getting the product right down there in St. George's for St. George's as a whole is very near and dear to

anyone who comes from that particular part of the Island. And as my honourable colleague who just took his seat mentioned, when we were the Government we did extensive studies on what the impact would be on the infrastructure in that general area. And one of the reasons why we did that, Mr. Speaker, was because, let us face it, St. George's is a UNESCO World Heritage Site. And we want to make certain whatever changes that we are making down there in that area do not in any way, I guess, impact negatively on that designation.

As my honourable colleague who took his seat did mention, many of the houses in St. George's—the older houses—are a few hundred years old. They, in and of themselves, are historical buildings. And certainly when considering the impact of trucks and what have you coming into the St. George's area to carry the resources necessary to get this hotel done, we looked at what it would do, or the type of problems that may be caused, as an unintentional consequence. And so it was imperative that we looked at the route for these trucks and what have you to ensure that we minimised any negative impact to the residents who live in that area and, indeed, to some of the buildings themselves that we consider as historical buildings.

If you travel up through Duke of Kent Street, you can look at any number of the houses on that street and other areas. If you go up the Barrack Hill you can look at the condition of the hill and you can see some of the problems just . . . almost visually looking at it, that might present themselves if we do not take the due diligence necessary to ensure that we are carving out a path that will cause the least amount of disturbance.

On top of that, Mr. Speaker, I have to speak to things like Fort Williams and the other fort that, as I understand, will be converted to a restaurant. Again, these are old relics; old historical sites, which lend themselves to that status of being a World Heritage Site. And we would hope that any change whatsoever does preserve those sites with the World Heritage organisation and not change them considerably where they fall out of the type of look.

If anyone lives in St. George's, certain areas of St. George's, they would know that the houses in that area fall into what is called the "preservation area" and the buildings in those areas fall, in general, into what is called the preservation area. And they must maintain certain architectural features. When we are talking about forts that are from way back when, one would hope that these structures are not going to be . . . even if they are being used, the inside is being used for something different and for certain amenities, one would hope that overall the whole look and the structure is not significantly changed that it, again, takes from that whole, I guess, World Heritage feature that those buildings and other aspects of St. George's

have led to us being designated a World Heritage Site.

On top of that, Mr. Speaker, even though you know there are certain assurances that the beach will remain public, I have to stand up and say that when we look at the redirection of some of the roads, it is imperative that things like Fort St. Catherine remain available to public access and use. There is not a St. Georgian who will stand for any loss of the use of that beach or not being able to readily access Fort St. Catherine.

And I suppose, speaking as a St. Georgian, we do want to see a structure there and accommodation there that we believe will lend itself to returning St. George's to that once vibrant town that it used to be. So, I do not think any St. Georgians wish for this particular venture to fail. But we want to help in terms of our critique, criticism, whatever you want to call it. We want to help ensure that the product that is going to be erected is in keeping with what we want there in St. George's, helps to maintain our tourist product, and is not something that leads to the exclusion of those who live there in the community.

And so with those brief remarks, I am hoping that as we continue this debate the Shadow Minister who speaks for Tourism in this House can elucidate on those types of things to make it clear to us that in no way are St. Georgians and Bermuda as a whole going to find us on the short end of the stick with this particular venture.

Thank you, Mr. Speaker.

The Speaker: Thank you very much, Honourable Member.

The Chair will now recognise the Honourable Learned Member from constituency 31, MP Shawn Crockwell.

You have the floor.

Mr. Shawn G. Crockwell: Thank you, Mr. Speaker.

Mr. Speaker, I would like to say to the Junior Minister who presented this amendment Act and to the Minister who is in the Gallery that I am pleased to see that we are still proceeding. This is a project of national importance to this country, most particularly, to St. George's. It is a project that this Parliament needs to ensure that we support as best as possible and as much as possible to get it going and get it to a realisation, Mr. Speaker.

Certainly we would have liked for construction to have started. But what we have learned is that, in particular with projects of this size, not just the size of the actual physical structure, but the amount of money that is being invested, there are going to be changes. There are multiple parties involved in these types of transactions. It is not just the Government and the developer. You have lenders, you have other individuals who will have an impact and play a contribution in terms of how the development . . . you have the oper-

ator, who also works with the developer. So, you will have the need to have a variation to have things changed, Mr. Speaker, as you go along.

One of our challenges in Bermuda, in our jurisdiction, is that we are so bureaucratic that quite often developers get impatient and they go because in other jurisdictions things get done in a far more expeditious way. And so I think that we have to learn from this experience going forward. I know that there is an Incentive Act that is going to be coming, but we have to create a system where developers when they get here . . . I can recall when I was the Minister, Mr. Speaker, not just on this project, but on other projects, things would grind to a halt because of bureaucracy.

We need to have a system where we are providing really a top-notch service to . . . we hear of the concierge service. We have to provide that to individuals who are coming to our jurisdiction with the intent of investing substantial foreign currency. And we have had a mindset of regulation here, a mindset of . . . for whatever reason, for many years we believed that we were such a desired destination—and we are. I love this country. I think we are one of the best destinations in the world. But the competition is so vast out there, Mr. Speaker, that if people cannot build here they say, *Okay, see you later*, and they go somewhere else . . . very quickly. Central America, in the Caribbean. They can go and build for much less and get more traffic, Mr. Speaker. So we have to be prepared to recognise that we have to go over and beyond sometimes, to not just attract the developers, but to keep them when they get here because they have no obligation to stay and no obligation to invest.

Now, Mr. Speaker, I heard Honourable Members speak to some of the concerns. And I think that it is the right of all Members to look at these things and make sure that we are passing legislation that is good for the country and that, certainly, that we are not doing anything that could, down the road, create a problem. I think that we should feel comfortable with the Development Applications Board that if they deem it not necessary for certain assessments to take place . . . that is why they are there. They are the expertise body to evaluate a situation and not cause unnecessary process to take place if it is not required. So I have no problem with the DAB having the discretion to forego an unnecessary assessment process.

Now the Honourable Member from constituency 5 raised an issue in terms the 262 years. And he was referring to changing it from 262 in this amendment in relation to the original St. George's Act. And I am not quite sure if he was clear on what was happening in the amendment here. But let me be clear that in the original St. George's Resort Act the lease is for up to 262 years. And that was in section 3(1)(b) of the original legislation. And let us also be clear that in the Park Hyatt Act it was 262 years as well. So it was 131 with an option to renew up to 131, so it was 262 in the Park Hyatt Act. So the term of years—

[Inaudible interjection]

Mr. Shawn G. Crockwell: I am going to get to why it is a change here. The change here is not in relation to the lease. The change here is in relation to . . . if you will look at it . . . and this is something probably more appropriate, Mr. Speaker, for Committee, but the change is in relation to the Companies Act and the Limited Liability Act. And in those Acts, as it relates to tourist accommodation and the like, there is a limit of 131 years. So it only makes sense to normalise the term in the St. George's Resort Act because you do not want the developer to be able to hold a residence or a tourist accommodation for less time than they are holding the actual lease. So it just seems to make sense to make the terms synonymous, Mr. Speaker, as it relates to tourist accommodations and the like.

My only other comment, I would like to, again, you know, congratulate the Junior Minister. I know that we need to get this thing going next year, Mr. Speaker, and it would be a great victory for the country. And I do not want to anticipate a future debate, but I am surprised that the provisional licence, Mr. Speaker, is not contained in this amendment. I do not understand it. And when we get to the Bill down the road where it is contained, somebody needs to explain why it is there and not here. It would just seem to make sense. It seems to be neater. It seems to just tie in to what we are trying to do in terms of getting this resort up and going, why that was segregated from this amendment Act.

Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

The Chair will now recognise the Honourable Minister for Economic Development, Dr. Gibbons. You have the floor.

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

Mr. Speaker, there were a lot of questions I think coming from the other side of the House and rather than putting that entire burden on the Junior Minister let me see if I can in the meantime tackle some of these questions—

[Inaudible interjections]

The Hon. Dr. E. Grant Gibbons: —that have come up and I think reinforce the comments that the previous speaker, the Honourable Member from constituency 31 made in terms of the importance in making sure this development goes forward and, frankly, in a timely way as well because I think the people of St. George's for at least 15 years (and probably another five years before that) have not had the benefit of a substantial resort down there. And I think everybody is very pleased with this concept of a St. Regis. It is a

very high-end property, 122 rooms and with all the facilities. And I think not only in the construction phase, but also certainly in the operational phase, it is going to do a lot to help revive St. George's, the town and the surrounding area as well, with jobs and everything else.

Some of the questions that have been raised on the other side relate understandably to the issue of the World Heritage Site and the importance of that. And suffice it to say that, I think, had Honourable Members gone back and refreshed themselves with respect to the substantive Act—the 2015 Act—they would see that there is a great deal of sensitivity already baked into the current Act with respect to protection of the World Heritage Site. And I refer specifically to section 7 of that, which is specifically labelled "Protection of World Heritage Site (Historic Town of St. George and Related Fortifications)."

It talks about such things as the special historical character of the forts being retained and preserved; only minimal changes to the forts' distinctive materials, features, spaces and relationships; any development must be compatible with historic materials, features, size, scale, proportion; and any development scheme shall ensure that the forts are maintained and secured. And I think I can help, hopefully, to assure Honourable Members that the developer is very conscious of this. They understand the importance for the success of their resort and the success of that whole area, that this whole World Heritage Site issue be taken very, very seriously. And I will comment upon that in another minute or two.

An Honourable Member, and I think it was the Honourable Member from constituency 2, raised the issue of traffic—I am sorry, constituency 3—raised the issue of traffic. And I refer her specifically to section 8 of the existing St. George's Act which says, "It shall be the duty of a person driving a commercial vehicle on a route referred to in subsection (1), to travel at such reduced speed as will not cause damage to the road or surrounding structures." And not only is it in the legislation, but I am advised by Chambers, that that also would give somebody who, shall we say, is involved with surrounding structures in the event there was damage to have legal recourse as well. So I think there is a lot which is already baked in here.

So let me tackle a couple of the other questions that were raised in terms of historical features. Honourable Members may be aware that as a consequence of the World Heritage Site and the sensitivity and delicacy around those issues, that there has already been a historical or archaeological assessment done. It was done by Dr. Harris, as many will know, up at the National Museum. In fact, in some of the potential construction areas they effectively did some drilling and looked at, I guess you call them, assessment bores to try and get a sense of whether there was anything of an historical nature there. And that has been done as a report and my understanding is and I am

sure that if anything comes out there will be some future report. And my understanding is that analysis did not show anything that was critical.

Now, I think the Honourable Member from constituency 5 raised the issue of if there is no Environmental Impact Assessment and someone comes across something that they will just keep building and whatever and there may be, let us say, historical remains found or something of that sort. My understanding is that if there are historical remains that are discovered in the course of excavation, they would be subject to what I have been told are the normal rules and people—experts—would be brought in to assess that.

With respect to this issue of the Environmental Impact Assessment being watered down, which I think Honourable Members have suggested on that side, let me just say that nothing is further from the truth, that in fact an entire Environmental Impact Statement was done for the whole site already. What this refers to is if there are minor changes of some sort, then it is going to be up to the discretion of the Development Applications Board as to whether additional Environmental Assessment work needs to be done or not and not have to redo the entire Environmental Impact Assessment should there be changes, as we will see in the amending legislation itself.

So the issue is we are not essentially doing away with it, it is still very much there. And I think the issue actually is covered rather nicely in the Explanatory Memorandum where it essentially says that the clause that we are talking about, would not . . . “a Traffic Impact Assessment or an Environmental Impact Assessment would not be mandatory in respect of a part, or parts, of the Property where the Development Applications Boards does not consider it necessary.” So I think that is what we are talking about in that particular case.

I think the Honourable Member also mentioned that we are increasing the land . . . this particular lot that we are talking about here, which is going from 0.431 of an acre to 1.258 of an acre. He said it is being increased by two acres. Obviously, that is not the case. It is being increased by less than an acre. And the issue here was it was clearly—let us be honest—a mistake. For some unknown reason the lot that was put in as the developable lot there to be conveyed to the developers freehold was specified as Lot 15. In fact, that was the wrong one; it should have been Lot 5.

It was essentially a mistake in the former legislation. So this is not a conspiracy to increase the property. It was just simply the wrong lot was specked in the original piece of legislation.

I think the Honourable Member from constituency 5 also raised this issue of the developer being able to sort of pass it on to somebody else in the event of a default. That is not accurate, Mr. Speaker. What we are talking about here is that in the event of

a default by the developer, at that point there may also already be a number of sublessees. They could be condos or fractional units that have purchased a unit for some 262 years or leased a unit for 262 years. In the event that the overall developer fails, we do not want to put them in a situation where they lose everything as well.

So the only passing on, as it were, is quite clear in the amendment, and it says a sublease . . . sorry, it says if the developer defaults that the sublease will still be maintained as long as the sublessee was there prior to that termination and on that part of the property. So it is not as though you can simply pass this thing on.

Clearly, if there was a different developer, all sorts of issues would kick in and I think we would be, in some respects, at least back to making sure, first of all, that they were appropriate and all the rest of it, but that is a different story entirely.

The Honourable Member, Mr. Roban, was quite correct in terms of his introduction that this is a refinement of the lease to try to facilitate development down there. In terms of—

The Speaker: He is constituency 15, I think, yes?

Mr. Walter H. Roban: Yes.

The Hon. Dr. E. Grant Gibbons: [Constituency] 15, okay.

The Honourable Member from constituency 15, in terms of that. The issue that he raised with respect to the developer or the Minister of Public Works, in this particular case, varying any terms of some of the underlying lots and that sort of thing are for minor issues. If you had to move a tennis court or something of that sort, you would not have to go all the way back to ground zero. The Minister of Public Works, first of all, has to consult with Cabinet before any changes can be done as well, but those are considered for minor purposes. And, again, he was quite correct to try and facilitate development and to move this project along so that St. George's can benefit.

Mr. Speaker, I think those are the main points that I wanted to raise. Let us see, I have another note here. Yes, the Honourable Member, Mr. Crockwell, from constituency 31—

The Speaker: Yes. You spoke the names, Honourable Member.

The Hon. Dr. E. Grant Gibbons: Sorry?

The Speaker: Let us try and leave out the names.

The Hon. Dr. E. Grant Gibbons: I am sorry, yes.

The Speaker: You are doing well.

The Hon. Dr. E. Grant Gibbons: In my head the name twigs the constituency in many cases, Mr. Speaker.

[Laughter]

The Hon. Dr. E. Grant Gibbons: So that is a compliment, I think, to the Honourable Member.

The Speaker: All right.

The Hon. Dr. E. Grant Gibbons: He had asked the question of why the provisional licence is not in the St. George's legislation, and we will get to that, I guess, in a subsequent piece of legislation. And I think the answer to that, as I understand it, is to ensure that all provisional licences are dealt with in the same place. And obviously, as we will find out, the casino licence is the final licence in any case.

Mr. Speaker, those are the comments I would like to make. Thank you, sir.

The Speaker: Thank you. Thank you, Honourable Member.

Is there any other Honourable Member that cares to speak?

Since there are . . . the Chair will recognise the Member from constituency 29, MP De Silva.

You have the floor.

Hon. Zane J. S. De Silva: Thank you. Thank you, Mr. Speaker.

Mr. Speaker, I am glad to weigh in on this piece of legislation today. As you know, we had quite a discussion earlier this year with regard to this site. And I see that it seems like the rooms have finally been decided—the amount of rooms—and it seems like it is 122 rooms, Mr. Speaker, after seemingly to be moving about like a pinball at times. But maybe the Junior Minister or the Minister . . . I am not sure who is going to be carrying most of this Bill, Mr. Speaker. It might be the Honourable Member from [constituentcy] 22, is it?

The Speaker: Twenty-two.

Hon. Zane J. S. De Silva: Twenty-two. Maybe he might be carrying it, Mr. Speaker. But one of the things that I think that we were trying to determine, and I do not know if it has been determined yet, and I stand to be corrected, but will the developer be made to build the hotel first?

An Hon. Member: Yes, sir.

Hon. Zane J. S. De Silva: And I hear a big Yes, *sir* coming from the Junior Minister—

The Speaker: Honourable Member, you will have your chance to speak.

Hon. Zane J. S. De Silva: Thank you, Mr. Speaker

So I hear some confirmation from the Junior Minister that it will be built first, so I hope . . . yes, and the point is, Mr. Speaker, I do not see that anywhere. And when the Junior Minister just made the statement, maybe he is bringing an amendment to his own legislation, Mr. Speaker, to add that in as we go forward and get in Committee. So maybe we will have that. But it certainly will be interesting to hear what he says later on in Committee, Mr. Speaker.

The other thing, Mr. Speaker, you will know that there have been promises made by this group . . . and let me state from the outset that I support (and I have said it before, Mr. Speaker, and I will certainly say again that I support) . . . and declare my interest, Mr. Speaker. My company may even get a bit of work down there, who knows, Mr. Speaker. But let me say that I certainly support this hotel development or any hotel development in Bermuda because we know what it is going to do for our economy. We know that the Minister of Finance is going to like it for the foreign exchange. And we know, Mr. Speaker, that it should produce jobs for Bermudians. So, you know, we certainly support it and I think it . . . I do not think there is a Member in this House that would not support it for those particular reasons, Mr. Speaker.

But I do have some concern, as I had concern earlier this year, Mr. Speaker, and last year and the year before that because we have been talking about it for a couple of years. And it just gives me a bit of concern in that this hotel developer also promised, Mr. Speaker, on October 30th, 2012, to build three hotels in the Turks and Caicos. The Ministers, the Premier of the country at the time, everyone was there for the photo-op. And they were going to spend half a billion dollars on three hotels, Mr. Speaker, and they have not started yet . . . to my knowledge. They have not started.

So I hope that this development in Bermuda is going to be a little different than the development that they promised—the three developments that they promised—in the Turks and Caicos, four years ago—four, Mr. Speaker.

Now, Mr. Speaker, the other thing that I am hoping will come out today, whether it be in this debate or whether it be in Committee, is the time frame. Because you will remember that former Minister Crockwell stated in this House that construction would start December 12, 2014, and would be finished the following year. So my question is, are we going to get a time frame from the Junior Minister or his colleague from constituency 22, or, in fact, any Member from the OBA, Mr. Speaker? Are we going to get a time frame? Are we going to get a start date? Are we going to get a completion date? Are we going to get a schedule? Is it going to be presented to this House?

Well, the Junior Minister said he is going to start with the hotel. What is the start date? What is the completion date? Will they start the condos in conjunction with the hotel? What sort of arrangements have been made? It would be interesting to get that information.

And I know that the OBA wants to be transparent, as they say that they are. And I know that they are going to give us all this information because they are not doing anything in secret anymore, Mr. Speaker.

Mr. Speaker, the other thing that concerns me a bit is the Minister and the Cabinet being able to select another hotel operator/developer if this one fails. You might recall, Mr. Speaker, that one of the concerns that I had when we debated this legislation earlier was the fact that I did not see an “out clause.” Do we get a hotel that is half built, [if] all of a sudden the developer runs out of money and we have another structure that may sit there for 20 or so years?

Now I know that they have attempted, certainly, to put an out clause in this piece of legislation, Mr. Speaker. But what does concern me a bit is that it is not going to come back to this House. They are proposing that the Minister, after consultation with Cabinet, can make that decision. That decision, I think, Mr. Speaker, especially involving a large tract of the taxpayers’ land should come back to this place, Mr. Speaker. It should not, in my humble opinion, be something that is decided by a Minister and/or a Cabinet. That should come back to this House for sign-off, Mr. Speaker.

Now, Mr. Speaker, the other thing that I would like to just touch on (and, again, maybe these answers will be forthcoming before the day is done), is that it is my understanding that one of the local banks is supporting this project to the tune of \$50 million. And the question I have for the OBA, if this is true—and I hope they have done their due diligence, if this is true and a local bank is supporting this project to the tune of \$50 million—what does the bank have as collateral? That is a very important question. And I hope answers will be forthcoming during today’s debate, Mr. Speaker. What is being used as collateral if the local banks are . . . I am not even talking about any foreign financing, Mr. Speaker, because, certainly, that must come into play as well. But certainly I would like to know what the collateral is that is being put up for our taxpayers’ security.

And Mr. Speaker, the last thing I would like to touch on, because many of these things we can go through in detail in Committee—

The Speaker: In the Committee, yes.

Hon. Zane J. S. De Silva: Yes. But the last thing I would like to touch on, and you will know, Mr. Speaker, that when we debated this legislation previously there was a lot of talk about the training of Bermudi-

ans and actually putting that in the legislation. And you will know that it was put in the original draft legislation. But it was taken out when it came here. And then I believe, if my memory serves me correctly, it was put in the MDA. And the former Shadow Minister is saying yes.

Well, Mr. Speaker, I just want to make sure because, you know, some things have changed over the last several months, and I would like to have some reassurance that the training of Bermudians for this particular hotel and this particular project has not also been dropped or deleted from any previous agreements.

So, Mr. Speaker, that is my contribution and I thank you very much.

The Speaker: Thank you very much, Honourable Member.

Any other Honourable Members care to speak on this?

The Chair will recognise the Honourable Member from constituency 24, MP Lawrence Scott, the Shadow Transport Minister.

Mr. W. Lawrence Scott: Thank you, Mr. Speaker.

I had not planned on speaking until I heard the Junior Minister from constituency 1 mention that, and actually guarantee to this House and to the Bermuda public that the hotel was going to be built first. And that just raised a concern of mine because based off of my understanding of this Bill and the agreement going forward, the hotel is basically premised off of casino gaming licences being granted to the operator of the hotel. But yet it has been reported in the local media that the banks are not going to be granting or allowing accounts to be opened for casino or gaming establishments of that nature.

So, if casinos cannot get bank accounts here on the Island, that means that casinos . . . theoretically, the hotel cannot have a casino because they will not be able to move their money, save their money—

The Hon. Dr. Grant Gibbons: Mr. Speaker—

The Speaker: Yes.

POINT OF ORDER

[Anticipating debate]

The Hon. Dr. Grant Gibbons: Point of order. I think we are very much anticipating a—

The Speaker: Yes, I think, I think—

The Hon. Dr. Grant Gibbons: —future debate.

The Speaker: I think yes, yes.

The Hon. Dr. Grant Gibbons: The Honourable Member is misleading the House.

The Speaker: I think the anticipating debate is even more direct, more . . . it is clearer.

Carry on and just stay off that line.

Mr. W. Lawrence Scott: Okay. Well it is only . . . and I will take your guidance, because this Bill is about the hotel development in St. George's. And the hotel development in St. George's is premised off of casinos. So, therefore, if we do not have casinos, [will] the hotel will still go up?

The Speaker: From what I have been reading. But I do not know, I am just the Speaker.

Mr. W. Lawrence Scott: What I will do is ask for clarification on that one, on that point.

The Speaker: Right.

Mr. W. Lawrence Scott: Because that will then premise the rest of what I am talking about because that is basically my main concern.

The Speaker: So you might want to leave it and then when you get into Committee, obviously there may be things that may take you to ask that question.

Mr. W. Lawrence Scott: So, in the interest of not anticipating a debate, I guess I will save my speech for when we talk about casinos.

The Speaker: Yes, yes, that is it.

Mr. W. Lawrence Scott: All right.

The Speaker: Very good, very good, very good, very good. Thank you.

Any other Honourable Members care to speak?

The Chair will recognise the Minister for Home Affairs, Minister Patricia Gordon-Pamplin.

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

Mr. Speaker, my comments are going to be brief, but I think it is important that we highlight that this development is one that is, as the Honourable Member from [constituency] 31 indicated, of national importance.

Mr. Speaker, this Government is particularly mindful of the fact that it has been an awful long time since a hotel property has been operating in St. George's of this magnitude. We will know that. I believe this property started out being the Holiday Inn. It then became the Loews. It then became Club Med. And I think it was under the name of Club Med, once

that property was abandoned and there was no more use for the Club Med property, the company had pulled out and we had some promising representations that were made by one Mr. Bazarian. And we expected and anticipated at that point in time that there was going to be a Park Hyatt that would have been constructed on that very same site. Unfortunately, that was not to be.

Fast forward, Mr. Speaker. This Government comes into administration in service to the people of Bermuda and we have looked for how best to be able to ensure that St. George's, in particular, and Bermuda in general were going to be able to benefit from additional hotel rooms, new hotels, new product that would come on line. And there was an exhaustive process that was undertaken with various presentations to the Cabinet by different entities that were interested in that particular property. And it was determined that the Desarrollos Group, who were the ultimate successful bidders, would be given the opportunity to develop that site.

We have heard questions as to whether, in fact, the hotel will be built first, because as we can see from the Act and as we can see from the proposed plans there will condo units and there will be a hotel. I can understand the sensitivity of Members opposite because I think Bermuda was bitten very hard in a very uncomfortable part of the anatomy when it came to the Palmetto Bay Hotel development in which we got the condos and we did not get a hotel. And the hotel has not yet been built. So we understand that anxiety.

The Members of the House can be absolutely assured that this is a concern that we would have had in going into any commitment respecting this project. As we would do with any development, to say if there was meant to be a hotel component and a residence component, the hotel must be built first. This commitment has been made by the Desarrollos developers and we are looking forward to that.

We heard the Honourable Member from constituency 3 question the uses of the historic site and the fact that St. George's is a UNESCO site. And we recognise that. And as the Honourable Member from constituency 22 indicated there was some excavation that was done to ensure that we were not trying to upset the balance of what may have had significant historic value on that particular site . . . to make sure, I think it was said that there was a possibility that this was where Sir George Somers may have landed and we wanted to make sure that we were not defacing what would have supported the UNESCO site. And I think that excavation was able to show that this was not a concern and, as a result, those bore holes were closed in with the [approval of] the historical society with the UNESCO group. That this was fine. We did not have a problem in that regard. So we were not violating that which would have been sacred, if we can call it that, for that particular area.

The Honourable Member from [constituency] 3 also expressed concern with respect to the traversing of traffic up and down and whether it was likely to undermine the very sensitive historic buildings that exist. Obviously, we have those levels of sensitivity. And I think the Honourable Member from [constituency] 22 indicated that as far as the 2015 Act is concerned, there are specific traffic regulations that dictate that vehicles may not traverse those roads in any way that is likely to undermine.

These are sensitivities that, obviously, had to be brought to bear. But I think it is important to point out that when the Park Hyatt was going to be constructed, there was no plan to fly helicopters and land them on the site and then fly helicopters to the other side of the road. They were always going to traverse up that road. So the same way that the former Government would have been concerned to ensure that those properties that are along the highways and byways leading up to this site, both during construction and subsequent to, would have been taken into consideration, they must know that we also share those concerns.

Mr. Speaker, we are very, very mindful of the history of St. George's. We are also very mindful of the necessity to put our people to work. And I am very pleased to hear the Honourable Member from constituency 29, . . . Mr. De Silva, I am not certain of the constituency.

Hon. Zane J. S. De Silva: Yes, correct.

Hon. Patricia J. Gordon-Pamplin: I am very pleased to hear him once again offer his support to the Government with respect to this project.

Mr. Speaker, what really makes me excited as the Minister responsible for Labour is the idea that not only will our people be able to be put to work on the site as it is being cleared and prepared for construction, and during the construction phase, but also when it comes to ensuring that people will be able to work in the property at a level of excellence that will be the hallmark of the brand that the Desarrollos Group has chosen. We want to see, Mr. Speaker, a vibrancy in the town. I think it is important to understand that when the Club Med was dismantled it was not done by way of a wrecking ball or a sledge hammer to very sensitively dismantle the property. It was blown up with dynamite!

And Mr. Speaker, the very act of blowing that Club Med site up, in fact, obviously, served to undermine some of the structures, the very structures—

[Inaudible interjections]

Hon. Patricia J. Gordon-Pamplin: —the very structures that the Honourable Member has—

The Speaker: Honourable Members, please. Honourable Members . . . Honourable Members, please. Honourable Members!

All right.

Mr. Walter H. Roban: Point of order.

The Speaker: Yes.

Mr. Walter H. Roban: The Honourable Member may be unintentionally misleading the House. Unless the Honourable Member can bring evidence of such—

The Speaker: All right. Thanks, Honourable Member. Thanks, Honourable Member.

Thank you.

Hon. Patricia J. Gordon-Pamplin: Mr. Speaker, I said that dynamite was used on that site. It was implosion. Yes, it was implosion. But if you can tell me that you can implode a structure of that size and there be absolutely no ground rumbling . . . I think if Members think—

An Hon. Member: There was not.

Hon. Patricia J. Gordon-Pamplin: If Members think that I know nothing . . . I think that you could have heard it and you could have felt it.

Hon. Zane J. S. De Silva: Point . . . point of clarification and/or point of order.

The Speaker: Yes. Is there a point of clarification? Would you like a point of clarification?

Carry on.

POINT OF CLARIFICATION

Hon. Zane J. S. De Silva: Yes, thank you, Mr. Speaker.

Just so that the Honourable Member can be educated here today with regard to implosion, there are companies in the world, Mr. Speaker, that currently implode buildings in cities . . . in cities. In New York City, in particular, Mr. Speaker, it is not unusual for implosion to take place. Now this is next to other buildings that are 50, 60 stories high.

The Speaker: I think that makes . . . that brings clarity, thank you.

Hon. Zane J. S. De Silva: Thank you.

The Speaker: Thank you.

Hon. Patricia J. Gordon-Pamplin: Mr. Speaker, I am fully cognisant of implosion. I have actually been very close to sites—

[Inaudible interjections]

The Speaker: Honourable Member, let us just . . . move on from that. Yes, move on from that.

Hon. Patricia J. Gordon-Pamplin: So while Honourable Members feel that they have a necessity to educate me, they can be assured that I do my homework before I stand to my feet.

[Inaudible interjections]

An Hon. Member: Provide evidence.

Hon. Patricia J. Gordon-Pamplin: Mr. Speaker, as I said—

The Speaker: All right, Members.

[Gavel]

Hon. Patricia J. Gordon-Pamplin: As I said, Mr. Speaker, there was not a wrecking ball-type of environment. And I say that, not as a negative, as Members would automatically want to assume. I say that to let you know that while they had concerns for the infrastructure and ensuring that it was not undermined, certainly this Government will also take all of the necessary steps to make sure that the sensitivity of this World Heritage Site and its environs are not negatively impacted by the construction or the preparation or the development generally of the site.

I also heard the Member from [constituency] 3 being tremendously concerned, as were we, with respect to access to the beach. And that has been committed to writing to ensure that there would be access to the beach.

Mr. Speaker, we want to ensure that the project that ends up being constructed in St. George's is not just appropriate for the surroundings, for the history of Bermuda, but that we also want to have something of which we can be tremendously proud of when it is all said and done. Mr. Speaker, when that is the ultimate aim, you put in place terms and conditions to ensure that that ultimate aim is met. And I believe that this has been done in this instance.

I think Members of this Cabinet will be, perhaps, among the first to express frustration that we would have liked for ground to have been broken when the Honourable Member (the former Tourism Minister) indicated that we would have ground broken. We would have loved for it to have happened at that point in time. But I think there is an expression that we have heard many times in this House that *sometimes you may have to measure twice and cut once*. And I think that the things that have gone into place to ensure that this hotel is able to be built, that it is able to conform with the terms and conditions knowing that it

is within a World Heritage Site, the UNESCO site, that we are not likely to undermine the ability of Bermuda to hold on to that very precious commodity of being named a World Heritage Site.

And I think that we have put in place all of the checks and balances that would ensure that we have a project of which we can be proud, but, more importantly, one that will see our people go back to work, Mr. Speaker. One of which we will see, not just in the short term, but also in the long term. And that ultimately is the aim of this Government to ensure that we assist in every possible way, to see that our people are put to work in a meaningful way and not just necessarily on a short-term basis. Short term, yes, because that is necessary for the duration of the actual construction, but ultimately on a long-term basis and that they can reach the standard that will be expected of a site of excellence.

Thank you, Mr. Speaker.

The Speaker: All right. Thank you. Thank you, Minister.

Are there any other Members who would care to speak?

There are no other Members, so the Chair will revert back . . . the Chair will recognise, reluctantly—

[Laughter]

The Speaker: —the Minister for the Environment has the floor.

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

I could not sit here and not make a contribution as a lot of this involves the Planning Department and my Ministry. The reality is this project will be moving ahead—I know much to the disappointment of the Opposition. They would love to see this fail.

Hon. Zane J. S. De Silva: Point of order, Mr. Speaker. I think the Honourable Member should withdraw that.

The Speaker: Yes.

Hon. Zane J. S. De Silva: I think he should withdraw that.

The Speaker: Carry on. Carry on, Honourable Member.

[Inaudible interjections]

Hon. N. H. Cole Simons: Thank you, Mr. Speaker. We have the Loren Hotel coming on board next month and early next year we will have the St. George's hotel—two successes—

Hon. Zane J. S. De Silva: Can I quote you on that?

Hon. N. H. Cole Simons: Two opportunities for employment. Yes, you can quote me.

Hon. Zane J. S. De Silva: You will finish next year?

Hon. N. H. Cole Simons: I said *started*.

The Speaker: Just a minute. Honourable Member, take your seat. Take your seat, please.

Honourable Members, the debate has been very good up to this point, and we expect it to be a high level of debate. We expect respect as well. So Honourable Member, when you stand up you speak to the Speaker.

Hon. N. H. Cole Simons: Yes, sir.

The Speaker: And not to anyone else. And other Members please speak when it is your turn to speak and not shouting across the floor.

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

The Speaker: Carry on.

Hon. N. H. Cole Simons: For the edification of the community, the plans for the development were submitted, I believe, in August for the development of the hotel. The developers were very cognisant of the fact that they were dealing with a World Heritage Site so they worked with our Historic Advisory Board to make sure that they were comfortable with our plans. They also worked with the local branch of the World UNESCO Heritage Site Committee. The Committee, in fact, had concerns and because of the local Committee's concerns we embarked upon the archaeological study and the historic impact study.

As my colleague (the Honourable Minister of Immigration) indicated, the archaeological study was complete and they found nothing that was of historical value. And so that study basically proved beneficial in that we can be comforted in knowing that we can move ahead with the development of that site knowing that our history will not be compromised. We are waiting for the second study, which is the historical impact study, and that is being done by Dr. Ed Harris in conjunction with the architect of the developer, and we expect to have those results in before the end of November.

Mr. Speaker, as for the beach access, the developers have heard the people of Bermuda and they have made the accommodation and included beach access into their plans. In fact, the preliminary access had been broadened, and this became evident when they presented their final plan. So, yes, they have heard us. They have heard St. George's concerns, and the St. George's people can rest assured that they will continue to have access to all of St. Catherine's Beach.

Mr. Speaker, just recently I spoke with one of the developers—in fact, it was Thursday evening at a function. He had not met me and I had not met him. And the Chairman of the [BTA] pulled me over and said, *You have to speak to the developer*. And we were talking about the development of the St. George's hotel and he indicated to me, he said, *Minister, you need to know that we are committed to developing this hotel. It will take a while, yes, because most of the work of a development of this nature . . . the bulk of the work is done in the planning stage*. Securing Planning approval, anywhere in the world, takes a while. Once you get the Planning approval done the rest is easy. The building can go up quickly.

Bermuda is no different from anywhere else, there is a process that has to be followed, Planning regulations have to be complied with, inspections have to be done, and so that is where we are at and the developers know that this is part of the normal protocol.

So, Mr. Speaker, based on what I have seen, based on the plans that have been submitted, based on my conversation with the principals, I am more than confident that the developers are cognisant of our concerns, of Bermuda's concerns, they are cognisant of UNESCO's concerns as far as its being a World Heritage Site, and they are working to ensure that all stakeholder concerns are addressed. And they assured me that the hotel will begin to be developed within the next four or five months. That is the assurance that they gave to me.

Thank you, Mr. Speaker.

The Speaker: All right. Thank you. Thank you, Honourable Member.

Any other Honourable Member care to speak?

The Chair will recognise the Honourable Premier.

You have the floor, Premier.

Hon. Michael H. Dunkley: Thank you, Mr. Speaker.

I thank colleagues on both sides of the House for this debate and I thank the Junior Minister for his presentation and my colleagues for answering some of the questions.

Just a few things that I want to amplify a little bit and clear up as well. Before I go there, I do want to give appreciation and thanks to former Minister Crockwell and Minister Fahy (who sits in another place) and Minister Gibbons for their work. I am pleased to see, Mr. Speaker, that both sides of the House are in agreement with this Bill, and I am pleased to hear that the Opposition fully understand just how comprehensive it is, and the amount of work that needs to go into making everything happen before you put a shovel in the ground and bring those bulldozers down to start to clear the way. We have made significant process in this and the St. George's Resort Amendment Act 2016 should be a good step to allow us to move forward.

I think it is also prudent to note during this debate, Mr. Speaker, that the developers have been very open and have shared information. Honourable colleagues, certainly at the East End of the Island, will be well aware, the Junior Minister from constituency 1 was at the town hall presentations that they had where they laid out the plan design for the property where there was a good turnout of people that had the opportunity to get in and look at all the specifics of what was being proposed. And so they have shown their commitment to be open through the whole process.

And they have been very clear in listening to the concerns of the people of Bermuda, specifically as it relates to the UNESCO World Heritage Site, and to the ability of Bermudians who want to enjoy our surroundings, specifically beaches in that end of the Island, and they have taken that on board and they have been adamant that they will respect those wishes and allow us to do what we have to do.

You know in regard to the EIAs, I think Minister Gibbons answered them very clearly. But just let me touch base on that again because it is very important to understand. To get to the Planning application to be put in they had to do a very comprehensive EIA. This amendment right here deals with any further changes that might have to take place to allow the DAB to say yes, this is where you need to focus on any further EIA, to make sure that we can break some of that bureaucracy and red tape that the Honourable Member from constituency 31 talked about in his speech.

One of the challenges we have with development, certainly with larger developments, it that it is always a rolling landscape just because of the complex nature of what people want to do. And if we are to stay abreast of what happens in the world, specifically in this case in regard to tourism, we need to pay attention and allow developers to devote their resources to what is appropriate to devote them to rather than just say, you know, look at the whole project again when we are only talking about a bit over in the corner.

And in regard to the UNESCO dig that was done, that was something that we took very seriously because we are proud that East End and St. George's, specifically, has that UNESCO Heritage. But I was told by one of the individuals who did that survey that Sir George Somers must have drunk Heineken because that is the only thing they found in the holes when they dug them up—lots of Heineken bottles, Mr. Speaker. So I did not know Heineken was manufactured in 1609, but I guess it stood the test of time.

[Laughter]

Hon. Michael H. Dunkley: Mr. Speaker, I would like to deal with the provisional licence question that I be-

lieve was asked by the Honourable Member from constituency 31. And I did take the opportunity to speak to the Honourable Member as well.

[Inaudible interjection]

Hon. Michael H. Dunkley: The Honourable Member asked the question and I am going to answer the question, Mr. Speaker, and those on the other side who want to listen, they can listen too.

The Speaker: Yes, carry on, carry on.

[Inaudible interjection]

The Speaker: Carry on, carry on, Premier.

Hon. Michael H. Dunkley: Yes.

Mr. Speaker, in regard to the provisional licence and whether it should be in this piece of legislation or the next one, the Gaming Commission decided it would be more appropriate to be in the next piece of legislation that we will discuss, the Casino Gaming Amendment Act. And specifically because at the present time there is no provision for provisional licences, so you could not put it in this Act, you would have to put it in an amended Act to allow for the provisions to take place. So I think that clarifies the question from the Honourable Member.

So after the debate today I am pleased to see that we can continue to move forward. As my colleagues have said, specifically the Minister from constituency 9 *[sic]* it is very clear that the developers want to move forward . . . [constituency] 8—no, you are moving next election—from [constituency] 8. The developers are keen to continue to move forward, but they are also keen to make sure that the people of Bermuda fully understand and support this project. And they are keen to continue to build and strengthen their relationship with the East End of the Island in this very exciting project. And we are glad to be here today to have this debate.

Thank you, Mr. Speaker.

The Speaker: All right. Thank you, Honourable Premier.

The Chair will now revert back to the Junior Minister, Junior Minister Bascome, to close the debate.

Hon. Kenneth (Kenny) Bascome: Thank you, Mr. Speaker.

First of all I will deal with some of the questions that were posed. To the Honourable Member from constituency (let me get it right, I do not want to get in any trouble) 3. Yes, [constituency] 3—

The Speaker: Yes.

Hon. Kenneth (Kenny) Bascome: —in regard to Gates Bay, Mr. Speaker. Fort St. Catherine is the building, the beach is Gates Bay. I continue to explain it to all of you folks. The Parish is St. George's, the town is St. George. I am going to tell you again.

Mr. Speaker, you will be aware that when it comes to the Parish of St. George's, I am the guy. I had the opportunity to serve on the Corporation from 1994 up until 2013, so I am well familiar with the entire area, Mr. Speaker. I can assure the other St. Georgian in this Chamber that Gates Bay will remain accessible to the general public. I can assure you of that. I have had numerous discussions with the developers and they have assured me that that particular beach will remain accessible to the public.

Going on, Mr. Speaker, you will be aware that the Honourable Member, my Minister of Immigration, made the point that there was damage done to a few of the houses in the area. Well, Mr. Speaker, I can stand here today and verify that because I take care of one of the properties in the immediate area. It is the last property before you get to Gates Bay. Part of my job, on the 15th of every month, is to keep the property and the surrounding area looking halfway decent if potential buyers come by. And Mr. Speaker, I can tell you that the roof was severely damaged from the implosion of that hotel.

I am surprised that the Honourable Member from constituency 5, I believe it is, would make the point about rumbling going through the town, because that Honourable Member, Mr. David Durham and myself were responsible for removing the debris after the implosion. And we were using the small trucks initially, but all the small trucks complained that the rebar was damaging their vehicles. So the Honourable Member, Mr. Durham and myself sat down and we decided to use dumpsters.

[Inaudible interjection]

Hon. Kenneth (Kenny) Bascome: It did not, huh?

[Gavel]

Hon. Kenneth (Kenny) Bascome: And Mr. Speaker, my greatest asset is saving news clippings and things of that nature.

But moving on, Mr. Speaker, the hotel actually opened in 1973. It was open for eight years. They then sold out to the Loews Corporation who was here for four years, Mr. Speaker. Loews then sold out to Club Med who was here for four and a half years. The United Bermuda Party had that property dormant from 1988 until 1998 when the Bermuda Progressive Labour Party came into Government. There had been four proposals for that property until the Honourable Dr. Ewart Brown and the former Mayor E. Michael Jones sat up in church and said to me, *What do you have to say now? We have a developer.* I can re-

member that just like it was yesterday, Mr. Speaker. And I said to the Honourable Dr. Ewart Brown, *I am pleased that you have found a developer.*

And I have to give you some history, Mr. Speaker, because I had supported Maria Caisey being the mayor and the press called me and asked me, *Will you still be throwing your weight behind Maria Caisey now that the mayor and the Premier have found a developer?* And I said to the press, *I am more adamant now than ever that he not be the mayor,* because he went public, Mr. Speaker, before sharing that information with his council. And I took a personal affront to that because I was the senior member on the St. George's Corporation at the time, Mr. Speaker.

So I just want to say thank you to those Honourable Members, and I want to say thank to the Honourable Member (let me get his constituency . . . number 31—I marked it) for all the due diligence that he, with the proposed developers, went through to getting us to this particular point. To that Honourable Member, once again, I take my hat off to him. People keep saying that. I will always support him. I say, *Well, when it comes to tourism I have a passion.* And I have said to the Honourable Premier, *I am the Minister of Visitor Development; I am no Junior Minister of Tourism.*

So, Mr. Speaker, with that I move that the Bill go to Committee.

Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

It has been moved that the St. George's Resort Amendment Act 2016 be now moved to Committee.

Are there any objections to that?

There are none. So I would like for the Deputy Speaker, please, to take the Chair [of Committee].

House in Committee 4:16 pm

[Mrs. Suzann Roberts-Holshouser, Deputy Speaker, Chairman]

COMMITTEE ON BILL

ST. GEORGE'S RESORT AMENDMENT ACT 2016

The Chairman: Members, we are now in Committee of the whole House for further consideration of the Bill entitled [St. George's Resort Amendment Act 2016](#). I call on the Junior Minister in charge to proceed.

Junior Minister, you have the floor.

Hon. Kenneth (Kenny) Bascome: Madam Chairman, I ask that all the clauses be moved.

The Chairman: It has been proposed that all the clauses, that would be clauses 1 through 9, be moved.

Are there any objections to that motion?
No objections to that motion.
Junior Minister, please proceed.

Hon. Kenneth (Kenny) Bascome: Madam Chairman, I am having trouble with this light.

The Chairman: Maybe someone can loan one of their table lights.

An Hon. Member: Is it too much light or too little?

[Pause]

Hon. Kenneth (Kenny) Bascome: Madam Chairman, I move that the clauses all be moved at this particular time.

The Chairman: Member, yes, we have—

Hon. Kenneth (Kenny) Bascome: The Explanatory Memorandum . . . clause 2(a) amends the definitions of “freehold land” in section 2 of the principal Act to increase the freehold land portion of the Property from 0.175 hectares (0.431 acres) to 0.509 hectares to 100,258 acres—

The Chairman: Member, that would be 1.258 acres.

Hon. Kenneth (Kenny) Bascome: Yes, ma’am.
The freehold land is shown outlined in red in the revised Subdivision Plan (Drawing No. 5510/046/448 rev. 1) in the new Schedule 5 (see clause 9).

Clause 2(b) amends the definition of the “Property” in section 2 of the principal Act to add 0.944 hectares (2.331 acres), being the “Remote Area” shown in the revised Property Plan (Drawing 5743/003/01 rev.1) in the new Schedule 3 (see clause 7). This increases the size of the Property from 49.538 hectares to 122.411 acres to 50.582 *[sic]* [hectares] to 1124.43 [acres].

Hon. Zane J. S. De Silva: Point of order or clarification.

The Chairman: Sorry, yes, I am sorry. The Chair recognises the Member from constituency number—

Hon. Zane J. S. De Silva: Twenty-nine.

The Chairman: —[constituency] 29. You have the floor and you have a point of?

Hon. Zane J. S. De Silva: I have a point of clarification.

The Chairman: Minister?
I guess the Junior Minister concedes. Please.

POINT OF CLARIFICATION

Hon. Zane J. S. De Silva: I do not know if all other Members were listening, but all the numbers were wrong and for the record I think it should be re-read so that we can get the record straight, please.

The Chairman: Junior Minister?

[Crosstalk]

Hon. Kenneth (Kenny) Bascome: Madam Chairman, this Bill will amend the St. George’s Resort Act 2015 (“the principal Act”).

Clause 1 is self-explanatory.

Clause 2(a) amends the definitions of “freehold land” in section 2 of the principal Act to increase the freehold land portion of the Property from 0.175 hectares to 0.431 [acres] to 0.509 hectares to 1.25 *[sic]* acres. The freehold land is shown outlined in the red—

[Inaudible interjection]

Hon. Kenneth (Kenny) Bascome: —1.25 *[sic]* acres.

[Inaudible interjection]

The Chairman: Thank you, thank you.
Member, they are just trying to—

An Hon. Member: Assist.

The Chairman: —correct the numbers—

Hon. Derrick V. Burgess, Sr.: Not only that, it is—

The Chairman: —that you are reading.

Hon. Derrick V. Burgess, Sr.: —not clear because what the Junior Minister is saying, one point . . . 0.175 hectares to 0.431 acres, you know, it is “or” and substituting, that is what we should be saying, substituting.

The Chairman: Thank you, Member.

[Crosstalk]

Hon. Kenneth (Kenny) Bascome: Property from 0.175 hectares—

An Hon. Member: No, it is not.

Hon. Kenneth (Kenny) Bascome: It is 0.175 to 0.431 acres.

Hon. Zane J. S. De Silva: It is the same measurement. It is the same measurement.

Hon. Kenneth (Kenny) Bascome: Point . . . 0.59 [*sic*] or 1.25 [*sic*] acres. The freehold land is shown outlined in red in the revised Subdivision Plan (Drawing No. 5510/046/448 rev. 1) in the new Schedule 5 (see clause 9)

Hon. Zane J. S. De Silva: Okay.

Hon. Kenneth (Kenny) Bascome: Clause 2(b) amends the definition of the “Property” in section 2 of the principal Act to add 0.944 hectares or 2.331 acres, being the “Remote Area” shown in the revised Property Plan (Drawing 5743/003/01 rev. 1) in the new Schedule 3 (see clause 7). This increases the size of the Property from 49.58 [*sic*] hectares—

Hon. Zane J. S. De Silva: No.

Hon. Kenneth (Kenny) Bascome: —or . . . or 122.411 acres to 50.482 or 1-2—

Hon. Derrick V. Burgess, Sr.: Madam Chairman, this is becoming very painful.

The Chairman: Member, you are standing for?

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

The Chairman: Your point, please?

Hon. Derrick V. Burgess, Sr.: The point is (b) says—

The Chairman: No, your point . . . you are standing for a reason.

Hon. Derrick V. Burgess, Sr.: The point is he is giving wrong information.

The Chairman: Your point of order?

POINT OF ORDER
[*Misleading*]

Hon. Derrick V. Burgess, Sr.: He is giving wrong information. He is misleading the House.

The Chairman: Thank you, Member.

Hon. Derrick V. Burgess, Sr.: Let him—

The Chairman: He is working on getting the correct information that we all have in front of us.

Hon. Derrick V. Burgess, Sr.: Yes, but it is not—

The Chairman: Thank you very much.

Hon. Derrick V. Burgess, Sr.: —he is not reading it correctly.

The Chairman: Thank you very much.
Junior Minister.

Hon. Kenneth (Kenny) Bascome: To 50.482 hectares or 124.743 acres.

Clause 3(a) inserts paragraphs (d) and (e) in section 3(1) of the principal Act. Paragraph (d) provides that, in order to facilitate the Development, the Minister responsible for public lands, with the prior approval of the Cabinet, may vary any term (other than the term of years) of any lease granted to the Developer. Paragraph (e) provides that, were there to be an early termination of a lease (as a result of default by the Developer or its successor in title), the Minister responsible for public lands may enter into a lease, for the unexpired term of years, and otherwise on similar terms, with the person who immediately before the termination is the tenant.

Clause 3(b) inserts subsection (2A) in section 3 of the principal Act. Under the common law, the variation of the area demised by a lease could be taken to be [a surrender] and regrant of the lease. Subdivision [*sic*] (2A)—

An Hon. Member: Subsection.

Hon. Kenneth (Kenny) Bascome: —subsection (2A) disapplies the common law, except for the purposes of the new section 4(2) [*sic*] of the principal Act—

An Hon. Member: [Section] 5(2).

Hon. Kenneth (Kenny) Bascome: —[new section] 5(2) of the principal Act (see clause 5), in respect of a variation to a lease under the newly inserted subsection (1)(d) (see clause 3(a)).

Clause 3(c) amends subdivision (6) of section 3 of the principal Act. Subsection (6) currently provides that, once the Developer has been granted consent to carry on a “restricted business activity” relating to corporate land holding under section 4A of the Companies Act 1981, that consent cannot subsequently be revoked. The amendment provides that the consent could also not subsequently be modified. It further provides that the consent, once given to any successor in title of the Developer, could also not be modified or revoked.

Clause 3(d) inserts subsections (7) and (8) in section 3 of the principal Act. Subsection (7) defines the newly inserted reference to “successor in title” to make it clear that subsection (6) applies to a successor in title which is a company carrying on a “restricted business activity” referred to in paragraph (c) of the Ninth Schedule to the Companies Act 1981 (i.e. “acquiring land or holding land other than in the case of

land acquired or held under sections 120 and 129” of that Act), but that the company is required to get ministerial consent under section 4A of that Act in the first place. Subsection (8) modifies the following three provisions of law: section 120(5) of the Companies Act 1981; section 129(1)(aa) of the Companies Act 1981; and section 20(5) of the Limited Liability Company Act 2016. These provisions of law provide that a local company, an exempted company, or a local Limited Liability Company, respectively, having a physical presence in Bermuda may, with the necessary ministerial sanction or consent, acquire or hold any land that is a “hotel residence” or “tourist accommodation” (as defined in section 72(1) of the Bermuda Immigration and Protection Act 1956) for a period of 131 years. Subsection (8) provides that, in relation to the acquisition or holding of any “hotel residence” or “tourist accommodation” that is a part of the Property, each of the these three provisions of law is to apply with the modification that “131 years” is to be read as “262 years”.

Clause 4 amends subsections (1)(e)(iii) and (1)(e)(iv) so that a Traffic Impact Assessment or an Environmental Impact Assessment would not be mandatory in respect of a part of, or parts—

Hon. Wayne L. Furbert: Point of order, Madam Chairman.

The Chairman: Your point of order is?

Hon. Wayne L. Furbert: Yes.

The Chairman: No, your point of order is?

Hon. Wayne L. Furbert: Point of order, sorry. The . . . and maybe it was—

The Chairman: I would like to have an understanding of what the point of order is.

Hon. Wayne L. Furbert: If you will allow me to say a few things I will get to it.

The Chairman: Is it?

Hon. Wayne L. Furbert: Well, point of clarification then.

The Chairman: Well the Minister, the Junior Minister, will have the opportunity to accept the point of clarification or not.

Hon. Wayne L. Furbert: I just want to ask—

The Chairman: Junior Minister, do you accept a point of clarification or not? Junior Minister . . . Junior Minister? Do you accept the point of clarification or not?

Junior Minister, do you accept the point of clarification?

Hon. Kenneth (Kenny) Bascome: No.

The Chairman: Thank you.

Hon. Kenneth (Kenny) Bascome: He said never mind.

The Chairman: Please proceed.

Hon. Kenneth (Kenny) Bascome: Protection Act 1956 for a period of 131 years. Subsection (8) provides that, in relation to the acquisition or holding of any “hotel [residence]” or “tourist accommodation” that is a part of the Property, each of the these three provisions of law is to apply with the modification that “131 years” is to be read as “262 years.”

Clause 4 amends subsections (1)(e)(iii) and (1)(e)(iv) so that a Traffic Impact Assessment or an Environmental Impact Assessment would not be mandatory in respect of a part of, or parts, of the Property where the Development Applications Boards does not consider it necessary.

Clause 5(a) amends section 5(1) of the principal Act by providing that the final plan of subdivision (Drawing No. 5743/003/03, consisting of Sheets 1 to 8), prepared by the Senior Land Surveyor in the Department of Land Surveys and Registration, is to be submitted by the Minister responsible for public lands, in accordance with section 35B(2) of the Development and Planning Act 1974, to the Minister responsible for planning.

Clause 5(b) repeals and replaces subsection (2) of section 5 of the principal Act. The new [subsections] (2) and (3) provide that, if the area demised by a lease is varied under section 3(1)(d), at the request of the Developer, a revised final plan of subdivision is to be submitted by the Minister responsible for public lands, in accordance with section 35B(2) of the Development and Planning Act 1974, to the Minister responsible for planning. The revised final plan of subdivision must, however, first be approved by the Development Applications Board.

Clause 6 amends section 7(4) of the principal Act by deleting the reference to “Fort William (Gunpowder Tavern)” because Fort William (Gunpowder Tavern) is not a part of the Property.

Clause 7 replaces Schedule 3 to the principal Act with a revised Property Plan (Drawing No. 5743/003/01 rev. 1). The revised Property Plan includes the 0.944 hectares or 231 [sic] acres “Remote Area.”

Clause 8 amends Schedule 4 to the principal Act by inserting “Drawing No. 5642/021/11 Redcoat Lane” (the definitive boundary plan of the “Remote Area”) in the list of definitive boundary plans of the Property.

Clause 9 replaces Schedule 5 to the principal Act with a revised Subdivision Plan (Drawing No. 5510/046/448a rev. 1).

I thank you, Madam Chairman.

The Chairman: Thank you very much.

Are there any Members that would like to speak to clauses 1 through [9]?

The Chair recognises the Member from constituency 15.

You have the floor.

Mr. Walter H. Roban: Thank you very much, Madam Chairman.

Looking at clause 3, in particular, we see that this clause here essentially allows the Minister, if given notice by the developer, to . . . I am sorry, where it says [in the Explanatory Memorandum] that it provides, "in order to facilitate the Development the Minister responsible for public lands, with the prior approval of the Cabinet, may vary any term (other than the term of years) of any lease granted to the Developer." And this could also mean termination and perhaps a new developer be appointed. I think part of the concern here which has been raised in the general debate, but specific to this clause, is that there is no requirement to come back to Parliament in any way.

Now, I think we appreciate the need to . . . if this particular development is in float and it has actually been started, there is work that has already been done, that if by some chance that developer has to fall away and the interest of the country is to keep the development going, is that there is no need to go back to the very beginning and start the process over again with a new developer. We get that. But I think part of the concern is that this clause does not explicitly outline a process. Okay, somebody is available; we want to get them on board with the project fully, that it does not require any notice to Parliament or any notice publicly of this actual change or this varying. At least this clause does not explicitly sort of suggest that there is some reporting back to Parliament so that we are and the public are properly informed of a change, of a varying of a significant nature because this could be that, it could be something else.

And that it could be done just by the Minister and the developer consulting with the Cabinet, and the Cabinet can approve, that is a bit of a concern, I think, for us. And it does speak to a question of transparency and making it clear that what is happening is of . . . because, certainly, if there is a need to go back to Cabinet it has got to be a significant change to the arrangement that has been in place for the development by Parliament.

So this clause essentially eases that up in that even if there is an interest in making sure that this development keeps on going, does not stop, a new person can come on board without any significant alteration in momentum, that there is no requirement to

come back and tell us what is going on. This clause does not ensure that. So that is some of the concern . . . at least how it is worded. Now maybe I am mistaken and back in the original Bill it actually says that is a requirement, but this clause, speaking to this varying of this actual process, does not explicitly say that. So there is a concern and I would like to have the Junior Minister speak to that.

Going on further, Madam Chairman, the next clause I think is interesting. And I would be interested, perhaps, to have a legal mind explain this to me about . . . under clause 3(b) under the common law, the variation of the area demised by the lease could be taken to be . . . it is easing up, I guess, what terms would essentially cause the agreement to fall away or to be eliminated to some degree in that it seems to be, like I say, it disapples the common law in this instance.

I would like to, perhaps, have them explain to me why that is worded the way it is, because it seems to be allowing less stricter observance by the developer of things that would essentially cause this agreement to fall away. It seems to be, if I can use a more common term, providing a bit of slackness, you know, to the relationship between the developer and the Government and those persons who are responsible for making sure that the terms of the Master Development Agreement are actually followed.

[Timer beeps]

Mr. Walter H. Roban: So I would like to have some clarification on that change through clause 3(b).

[Clause] 3(c)—

[Inaudible interjection]

Mr. Walter H. Roban: Okay. On the advice of my esteemed colleagues, I am going to sit down and give the opportunity for the Junior Minister to give some answers because I do not want to overload him with too many.

The Chairman: Member, there may be other Members—

Mr. Walter H. Roban: And other Members may also have—

The Chairman: Correct.

Mr. Walter H. Roban: —their own treatment of these particular clauses. So I will sit down because I can likely get up again.

The Chairman: Absolutely, absolutely.

Are there any other Members that would like to speak to—

An Hon. Member: Yes.

The Chairman: The Chair recognises the Minister from constituency 22, the Honourable Dr. E. G. Gibbons.

You have the floor.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chairman.

As my honourable colleague was around the corner (and I will just leave it at that) while some of the questions were being asked, maybe I can assist here.

The Honourable Member from constituency 15, Mr. Roban, asked clause 3(a), but it is [clause 3 (a)](iii)(d), (e) and (b), which is (2A) down here. So let me try and tackle those in order.

Essentially (iii)(d) is saying—and the wording, obviously, as it always is in this stuff, is important—it says, “in order to facilitate the Development” it goes on to say “by agreement with the Developer and with the prior approval of Cabinet”—and this refers to the Minister of Public Works because that is the landlord in this particular case, okay?—they may “vary any term (other than the term of years).”

In other words you cannot change the number of years, which is 262, that stays the same. But as we know with large pieces of property and with a lease, okay, we are not changing the lease. The lease is still there. But there may be minor modifications within the existing lease which need to be changed, something that was not foreseen when the lease was drafted up. So the check and balance here is that the developer has to come to the Minister of Public Works in order to facilitate the development—and it has to be to facilitate the development, it cannot just for any other reason. They can “vary any term . . . of any lease granted pursuant to paragraph (b).”

And paragraph (b) obviously is important too. It says, “lease the rest of the property to the developer for a term not exceeding 262 years.” So what this is really saying is that going forward there may be a requirement, not to change the least, but to sort of modify the existing lease in certain areas. And rather than having to come back and review a lease—

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

The Chairman: Honourable Member—

The Hon. Dr. E. Grant Gibbons: If the Honourable Member will let me finish, then I can—

Hon. Zane J. S. De Silva: I think the Honourable Member is misleading the House—

The Chairman: Member—

Hon. Zane J. S. De Silva: —and it is a very important point.

The Chairman: Hold on a moment, please. I would like to hear what you said. Sorry, Minister, please have a seat.

Sorry?

POINT OF ORDER

[Misleading]

Hon. Zane J. S. De Silva: The Honourable Minister just said that he is not changing the lease, but they may have to modify it. In this particular—

The Chairman: And your point of order is?

Hon. Zane J. S. De Silva: My point of order is he is misleading the House, whether it be intentionally or not. But you cannot—

The Chairman: Thank you.

Hon. Zane J. S. De Silva: —say that you are not going to make any changes—

The Chairman: Thank you.

Hon. Zane J. S. De Silva: —you will modify. Modify means to change.

The Chairman: Thank you, Member.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: Thank you. Maybe I was not clear. What I was saying was it is not a new lease, okay? So we are not going out and changing a lease. It is still the existing lease, but there may be modification of certain terms—

Hon. Zane J. S. De Silva: Then you are changing it. So you are changing it.

The Hon. Dr. E. Grant Gibbons: Yes, exactly. That is the whole point of this paragraph—that the lease may be varied, but only under certain conditions. And the conditions are that it has to be with the prior approval of Cabinet and it cannot change the actual length, the term, of the lease, okay?

[Inaudible interjection]

The Hon. Dr. E. Grant Gibbons: And so this is to facilitate development. So if the developer comes back and says, *I want to do this*, to the Minister of Public Works, and it is not to facilitate development, like changing a tennis court from here to there or something of that sort, then Cabinet is not going to agree to it. It is as simple as that.

But the issue is, and these Honourable Members would be aware, you have got a very large piece

of property there. There may be movement of certain things within the piece of property, and rather than having to come back and re-table a lease in the House with minor amendments, this is essentially to be able to facilitate that.

So that is the point.

[Inaudible interjection]

Hon. Zane J. S. De Silva: You do it now, you do it later too.

The Hon. Dr. E. Grant Gibbons: That is the point.

The Chairman: Member, I cannot . . . I only choose to hear one person speaking.

The Hon. Dr. E. Grant Gibbons: Okay. Let me continue, okay? That is (d) okay?

When we get to [clause] 3(a)(iii)(e) it says, “in the event of early termination (as a result of default by the Developer or its successor in title) of a lease granted pursuant to paragraph (b)”—okay that is the 262 year lease—the Property . . . any sublessees . . . so what we are talking about here is if the developer or successor in title essentially defaults, underneath that you are going to have tenants. And those tenants could be fractional owners, condo owners, things of that sort. And we do not want them, essentially, to be in a position where the whole thing collapses.

So, in essence, what this (e) is doing here is it is allowing them to have certainty here for the 260 years or for the term of years equivalent to the unexpired term by the former sublease on similar terms to the former sublease. So it gives a condo owner or a fractional owner some security in terms of if the principal developer defaults. It is that simple. Otherwise it would be very difficult to sell these condos or fractionals or things of that sort.

So it is essentially an ability to be able to . . . if there is a default by the main developer, to if anybody who is there beforehand . . . this is not new people. This is people who had a sublease beforehand. They are able to continue it on the same terms and conditions that they had before, but now it is going to be, essentially, with Government, okay?

The Chairman: Thank you.

The Hon. Dr. E. Grant Gibbons: So that is that.

Now, let me go down to the (2A) which is down below. It says, “A variation under subsection (1)(d) of the area demised by a lease shall not, except for the purposes of subsection (2), by operation of law effect a deemed surrender and regrant of such lease.”

What we are saying here is that (1)(d) was the ability to be able to vary the lease, okay? And what we do not want to happen there, if there are minor modifications to the lease, common law would suggest that

that lease essentially is a surrender. We do not want it to be surrendered and have to regrant a new lease. We simply want it to continue with the minor modifications.

I am looking at the technical officers . . . so I think I have got that straight.

[Inaudible interjections]

The Hon. Dr. E. Grant Gibbons: Oh, yeah, okay. Yes, it refers to the area of the lease. Yes, so if you change the area then it is not considered to be . . . essentially a surrender of the lease and it does not have to be regranted, basically. Okay?

The Chairman: Thank you.

The Hon. Dr. E. Grant Gibbons: Yes.

The Chairman: Are there any other Members that would like to speak to clauses 1 through 9?

The Chair recognises the Member from constituency 5.

You have the floor.

Hon. Derrick V. Burgess, Sr.: Yes, thank you, Madam Chairman.

Madam Chairman, no Cabinet can vary or modify a lease in law. Law is made here. For any modifications, any changes, it has to be brought back here to this Parliament.

Now, I want this thing to be successful, I do not want to hold it up either, all right?

And the other point is that if the developer defaults—and I pray to God that does not happen—and you have got three other people interested, you have got to come back here. How are you going to deal with it? That developer certainly does not . . . probably does not want the same contract, the same lease that they had. So there have got to be modifications most times, and it must come back to this Parliament.

Again, no Cabinet can change law. That is . . . they cannot do it. Ask those lawyers over there. They will tell you that any modifications are a change of law. That is what we are here debating now. For example, the 131 years . . . they are trying to change that now because all the other leases that have been given for that basis have been 131 years plus the option to have another 131 years. They are changing . . . they are giving them 262 right off the rail. I am trying to find out what the reason is behind that. What is the reason for changing that? Because it does not make any sense to me.

Thank you.

The Chairman: Thank you, Member.

Are there any other Members that would like to speak?

Thank you.

The Chair recognises the Minister from constituency 22.

The Hon. Dr. E. Grant Gibbons: Yes, I think the Honourable Member from constituency 5 is confused. We are not talking about a new developer here in the event of default for section (d) here, okay? What we are talking about is the existing developer. If there are changes, small changes, they can be varied with the approval of Cabinet. So we are not talking about a situation where all of a sudden there is a default. That is a different section here, all right.

I think it is important . . . and there is no requirement in the principal Act to submit any lease to the House for approval. The Honourable Member will know that in a lease, if the tenant and landholder (or the lessor) agree, you can change a lease. It is that simple. Nothing prevents that. So those two issues, I think, the Honourable Member has misunderstood what we are getting at here.

The Chairman: Thank you. Are there any other Members that would like to speak?

Hon. Derrick V. Burgess, Sr.: Yes, I just want to—

The Chairman: The Chair recognises the Member from constituency 6.

Hon. Wayne L. Furbert: Well, that speaks to my point, Madam Chairman.

Because if you allow the Honourable Member to speak after my honourable colleague here from [constituency] 6, then you can let the Honourable Member speak after the Honourable Member—

The Chairman: Member, would you like to take your seat or would you like to ask a question?

Hon. Wayne L. Furbert: I do want to ask a question, but I just want to know what the rules are—

The Chairman: Please proceed.

Hon. Wayne L. Furbert: —what the rules are.

The Chairman: Please proceed, Member.

An Hon. Member: The Chair recognises people.

Hon. Wayne L. Furbert: Well, I understand that but we know—

The Chairman: Member, please proceed.

Hon. Wayne L. Furbert: Okay. In the early part, Madam Chairman, I asked why we did all 1 through 9 because this is why I am saying because if we had

done sections we could deal with those sections and dealt with them, but that is how you guys dealt with it.

Now, in order to facilitate the development, the Minister responsible for Public Works . . . public lands and the prior approval of the Cabinet may vary any terms. We do not have any concerns about that, that to facilitate the development, the Minister and the Cabinet can do basically what they want. Now they say “minor.” What is minor to them may be major to us in this House.

An Hon. Member: Or the taxpayer.

Hon. Wayne L. Furbert: Or the taxpayer of St. George’s. But we are just rushing things through, trying to get this development through before the 2012 election . . . sorry, the 2017 election. And it is wrong. We cannot be just allowing the Cabinet, the executives, to overrule some things that this Parliament has put through. But now, if we put this through, they will have the right to do it. And what does it mean “to facilitate the development”? To facilitate development could be very broad.

[Inaudible interjection]

Hon. Wayne L. Furbert: It could be significant and we are allowing the Cabinet to make that decision above this Parliament? It cannot be right.

Where is transparency and all those good words that the Government talked about? And then it goes on to . . . what my honourable colleague talked about, where we understand about the lease part. But that has to be a concern for this Parliament to facilitate the development. That could be as wide as . . . you know . . . that you can think of . . . it could be anything. The developer comes to mind and says, *To facilitate my development I want to build . . . triple the size of the land.* I do not know, get more land. And larger buildings, I do not know what it is. But there is something that has to be fundamentally wrong that the executives will allow that to happen. Something is wrong there.

The Chairman: Thank you, Member.

Are there any other Members that would like to speak to the clauses?

The Chair recognises the Premier from constituency number . . . sorry, your constituency?

Hon. Michael H. Dunkley: Ten.

The Chairman: Ten.

Thank you.

Hon. Michael H. Dunkley: Madam Chairman, I just heard some information coming from an Honourable Member who just simply amazed me.

Let us be real about what this clause is doing. He talked about build higher and all that type of stuff. How can you do that with approved plans? You cannot change them.

And the Honourable Member who I listened very carefully to and did not interject is now doing that. He should listen and he will be educated on stuff, Madam Chairman.

Hogwash!

People should come to the House and study legislation before they come up here and talk drivel.

Hon. Wayne L. Furbert: Point of order, Madam Chairman.

Hon. Michael H. Dunkley: Absolute drivel.

Hon. Wayne L. Furbert: Point of order, Madam Chairman.

The Chairman: Your point of order?

POINT OF ORDER

Hon. Wayne L. Furbert: The Honourable Member is inferring that . . . I think he is talking about me, that I did not study this legislation. I studied this legislation.

The Chairman: Perfect.

Hon. Wayne L. Furbert: Okay.

The Chairman: Thank you.
Member—

Hon. Michael H. Dunkley: I am not finished. I took that—

The Chairman: I am recognising you, Premier.

Hon. Michael H. Dunkley: I took more drivel in that point of order.

Now, if the Member follows the development application process he will see that that cannot be done.

Now, let us stop crying *Fire!* in a crowded movie theatre when it is not necessary. We all say we want this to move forward. Let us be real and ask some positive questions about this.

Now let me deal with what the Honourable Members raised in a more appropriate way about this. First and foremost, this Act allows discretion by the Cabinet for small changes that are appropriate, as the Minister said, moving a tennis court or something like that.

[Inaudible interjections]

Hon. Michael H. Dunkley: Now, Honourable Members, if you will listen . . . you can speak all night long if you want in Committee, but do not interrupt.

[Inaudible interjections]

Hon. Michael H. Dunkley: And you might find that your dinner is taken at your house, not in the back.

The Chairman: Speak to the Chair, speak to the Chair.

Hon. Michael H. Dunkley: Oh, I am speaking to you, Madam Chairman, because he might find that he actually moved on.

And the reason why that is done, as the Member from constituency 31 said, who has been the Minister of Tourism, and he understands the challenges—

[Inaudible interjection]

Hon. Michael H. Dunkley: And I hear the honourable chirping bird from [constituency] 21 who wants to say why is he not anymore . . . well, he will have an opportunity to speak.

[Inaudible interjections]

Hon. Michael H. Dunkley: Honourable Members need—

[Inaudible interjection]

Hon. Michael H. Dunkley: And we are getting back to the point where people do not want to listen to the House because we have a constructive debate and it goes downhill. Members can stand up any time they want to speak. Let us show some respect, tolerance, and understanding and we will all be in a better position.

Now, can I get back to the point, Madam Chairman?

The Chairman: Yes.

Hon. Michael H. Dunkley: It is hard to develop anywhere in the world because when you are developing big projects there are a lot of moving parts in it. If we want to keep up with our competitors, we have to have a degree of flexibility in the right fashion to make it happen. And you know the difference between . . . and I heard the Honourable Member from constituency 36 in the general debate talk about . . . sorry, it was in another debate, so I am not reflecting back, but in those times you know you would take something to the King or the Queen and you would get permission to do this. The world has changed. The world has moved on. We live in 2016 where any Member of Par-

liament or any member of the public can access any information they want at any time. So if—

[Inaudible interjection]

Hon. Michael H. Dunkley: So if honourable colleagues have a concern about any of this stuff they can see all the documents. Nothing can be hidden. But if we want to stay at the cutting edge and if we want to continue to grow tourism, if we are really genuine, Madam Chairman, genuine about building tourism, or if we really want to get caught up in the political muck back and forth, we have to make the decision. Because I am sure the Honourable Members, if they have the opportunity after the next election to sit on this side, are going to see it from this light, all right?

An Hon. Member: We will be there.

Hon. Michael H. Dunkley: They are going to see it from this light, that we need to understand that we have to have a degree of flexibility because you cannot . . . we are not going to hide anything in this world. We are not going to hide anything in this world, and I would like the commitment from Honourable Members on that side that they will not hide it as well.

An Hon. Member: You are hiding your Junior Minister.

Hon. Michael H. Dunkley: Because . . . and I hear the Honourable Member say, *You're hiding your Junior Minister*. The Honourable Members on that side [have] got two Bills from a Shadow Minister that is not even in the House. So do not tell me I am hiding anything. Do not play political smoke with me. You can stand up and speak.

This is serious business. This is about regenerating Bermuda and St. George's and we want to play political games back and forth, cry *Fire!* in a movie theatre when there is no need to. Come on! Let us move forward.

Hon. Derrick V. Burgess, Sr.: Speak to the Bill, Michael.

Hon. Michael H. Dunkley: I am speaking to the Bill. And also I am speaking to claptrap that I hear come up because it needs to be dealt with, not get for six . . . send it on, bring a new bowler. It is important in this world, because if you mess around with developers and do not have right reason for it, they do not need to be here. They do not need to be here.

One of the biggest concerns we hear, and I am sure Honourable Members heard it on that side, is *too much red tape and bureaucracy*. Yes, we understand proper legislation, regulation, oversight, transparency. But there has got to be a fine balance to

making sure it works properly. And I think we found this balance because at the end of the day, Madam Chairman, people can get any information they want.

So if Honourable Members on that side are genuine and sincere about moving it forward, they will understand that this clause will actually work.

Thank you.

The Chairman: Thank you.

Are there any other Members that would like to speak?

Thank you.

The Chair recognises the Member from constituency 29.

Hon. Zane J. S. De Silva: Thank you.

The Chairman: You have the floor.

Hon. Zane J. S. De Silva: Thank you, Madam Chairman.

You know, Madam Chairman, it is interesting to hear the Premier mention such words like, *if we are serious*, and, you know, *we do not have anything to hide over here*. But yet we have been trying to find out information about the airport for about two years now.

The Chairman: Member—

Hon. Zane J. S. De Silva: The same—

The Chairman: —the Bill in front of us is entitled St. George's Resort Amendment Act.

Hon. Zane J. S. De Silva: Yes, Madam Chairman.

And the Premier was talking about transparency and not hiding anything. He was the one that brought it up. And he said it was serious business, and it is serious business. And the airport is serious business. That is just one of the things that they hide from our people, Madam Chairman, that is serious and it continues. We will see how serious it is at next week's . . . or maybe this week's sitting, Madam Chairman.

Madam Chairman, the Premier also just talked about there are lots of small changes that are going to take place, that is why we need to have this change in legislation. I have not heard an example yet. What is a small change? What is a small change? And he also went on to say that on a project of this size we need a lot of flexibility. Wow! This is the same Government that accused us, when we were Government—

The Chairman: Member, we are talking on clause 3.

Hon. Zane J. S. De Silva: Yes, I am just—

The Chairman: I thought I would help you out.

Hon. Zane J. S. De Silva: Yeah, I am talking about clause 3, just like the Premier was, Madam Chairman. He talked about flexibility and that is why this clause is . . . he tried to explain this clause in his words. I am just trying to explain it in our words.

The Chairman: And I thought I would just identify the clause that you were addressing—

Hon. Zane J. S. De Silva: Clause 3(a).

The Chairman: —which you failed to do, so I thought I would do that for you.

Hon. Zane J. S. De Silva: Oh, thank you. Thank you, Madam Chairman. Clause 3(a) is what I am talking about. Thank you very much.

So, Madam Chairman, it is the flexibility that the Premier said that we need to have. And he said he needs to have a lot of flexibility. Well, maybe it would be helpful for those on this side to understand what he is talking about. Is he talking about changing a few windows? Is he talking about changing a door knob? Or is he talking about . . . like we have heard many times, Madam Chairman (and if you give me a second I will give you a couple of examples).

On May 23, 2014, the former Minister of Tourism in a ministerial statement to this House said that there will be 238 rooms, 16 hotel residences, and 24 golf villas. Then in December 2014 the same Minister said that they will do it in phases. There will be 122 rooms, 8 residences, and in Phase 2 there will be 4 large villas, and 22 golf villas. And then, once again, on July 17, 2015, the former Minister said there will be a 122 room hotel, 90 condos, and 6 estate residences.

Now, are these some of the changes we can expect from this Government? I do not know. They have not given us one example. But I have given you three examples—ministerial statements made by Members on the other side. And yet we have had these three major changes. So what is the Premier . . . and maybe the Junior Minister is going to talk sometime tonight and it will not be the Member from [constituency] 22 holding fort. And while we are at that, the Junior Minister makes an extra \$12,000, \$13,000 a year—

The Chairman: Member, Member, can we continue . . . I am going to . . . if you would like to take a look at [Standing Order] 32 of the Proceedings of Committee it is going to help to identify where we will go. But I am not going to let you go too broad, okay?

Hon. Zane J. S. De Silva: Okay. Thank you. Thank you, Madam Chairman.

Well all it is, Madam Chairman, is we have some legislation that is brought to this House by a

Junior Minister and yet you have the Premier and you have the Honourable Member from constituency 32 doing all the debating. I am looking for the Junior Minister who is responsible for bringing this legislation to answer some of these questions.

The Chairman: Thank you, Member.

[Inaudible interjection]

The Chairman: You continue . . . you have the floor to ask any further questions.

Hon. Zane J. S. De Silva: But the honourable chirping bird Premier wants to pipe up now.

The Chairman: Member—

Hon. Zane J. S. De Silva: The man who called me a chirping bird—

The Chairman: Member—

Hon. Zane J. S. De Silva: It is amazing. It is contagious . . . chirping bird Premier, oh, yes.

The Chairman: Would you like to continue with asking specific questions—

Hon. Zane J. S. De Silva: Yes.

The Chairman: —on specific . . . if you would help us out and tell us where you are at. That would be great.

Hon. Zane J. S. De Silva: Thank you. Thank you, Madam Chairman.

But it just, you know, when we talk about this being serious business, Madam Chairman, and you talk about the Premier . . . *Look, let's stop holding up legislation and let's move on it for the sake of expediency* . . . You will recall, Madam Chairman (maybe you will not recall, but . . .), when the Honourable Member from [constituency] 22 sat on this side of the House and we talked about things like in clause 3(a) and you talk about things like in clause . . . because we are doing all nine [clauses], are we not?

The Chairman: Yes, indeed.

Hon. Zane J. S. De Silva: Yes, in clause 3(d) as well, [new] section (7), Madam Chairman, when we talk about changing 131 to 262, Dr. Grant Gibbons said years ago when we were discussing one of our leases that 260 years is way too long. I have him quoted.

[Inaudible interjection]

The Chairman: Members, I only want to hear one voice.

Hon. Zane J. S. De Silva: So, Madam Chairman, we have an issue on this side, as I said in the general debate, with the Minister and the Cabinet being able to vary a lease, being able to change a lease that should be changed in this House. And until Members on that side can give us a few examples . . . like I said, if you want to change a window, okay. They are going to do that anyway. Why bring legislation to say that a Minister and the Cabinet can modify this lease? Are they really trying to be as transparent as they are showing they are not? I will hold that for now, Madam Chairman.

The Chairman: Thank you.

Are there any other Members?

The Chair recognises the Minister from constituency 22.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chairman. Let me see if I can help the Honourable Member out here.

[Inaudible interjection]

The Hon. Dr. E. Grant Gibbons: I think there is a little bit of a misunderstanding because this obviously refers back as well to the St. George's Resort Act. And it is very clear in the St. George's Resort Act that the lease does not have to be brought to the House, okay? It was not brought and approved as a lease. It was approved as an Act.

So essentially section 3 of the St. George's Resort Act, and I will read it says, "Notwithstanding section 8 of the Public Lands Act 1984, section 120 of the Companies Act 1981 or any other Act, the Minister may, for such consideration as the Government may determine—(a) convey any of the freehold land to the Developer (in fee simple); or (b) lease the rest of the Property . . . for a term not exceeding 262 years."

So what we are talking about here is this is a situation, and they did it with a Park Hyatt Act, where the lease does not come to the House for approval. It came as a courtesy. But the bulk of the leasing of the property, if I can put it that way, is in the Bill itself, okay?

So the Honourable Member gave lots of examples about changing the number of rooms and all that. That has nothing to do with the lease. Those are Planning changes, okay? And we know that the Planning application has already been made, okay? If they want to change the Planning application to change the number of rooms or whatever, then they have got to bring it back to the House. We are talking about changes to the lease here, which does not have to be approved by the House.

So in essence what we are talking about is minor changes to a lease which may come as a consequence of technical issues which come up in the

next few years, but the lease itself does not have to come to the House, nor does a change to the lease have to come to the House. A new lease entirely, if it gets changed in certain ways.

But what this is doing is facilitating development, and there are certain parameters around it in that sense and there are checks and balances. Obviously, Government is not going to want to do anything which is going to impact Bermuda or St. George's or things of that sort. We are going to want to get as good a deal as we can. So these allow technical changes to the lease which does not have to come to the House in the first place. I hope that helps.

The Chairman: Thank you.

Are there any other Members?

The Chair recognises the Member from constituency 29.

Hon. Zane J. S. De Silva: Well, I thank the Honourable Member for trying when he talks about facilitation. But what are the changes . . . well, I am going to ask Minister Gibbons, because we are still not . . . you know I should be asking the Junior Minister, but I will ask him and I will ask the Member from constituency 22, when he talks about facilitation and changes and things like that . . . not to change the lease. Would you be referring, if I could ask the Honourable Member . . . Madam Chairman, could he be referring to maybe the collateral that the Government are allowing the developer to put up for financing? Could that be one of them?

The Chairman: Thank you, Member.

Are there any other Members—

Hon. Zane J. S. De Silva: Well, I would certainly like an answer to that question.

The Chairman: Thank you.

The Chair recognises the Member from constituency 22.

The Hon. Dr. E. Grant Gibbons: Again, no.

The Chairman: Thank you.

The Chair now recognises the Member from constituency 36.

Hon. Michael J. Scott: Yes, thanks, Madam Chairman.

The Chairman: And I believe we are on clause 3.

Hon. Michael J. Scott: I am on clause 3(a)(iii)(e).

The Chairman: Thank you very much.

Hon. Michael J. Scott: So I heard the Minister of Economic Development say that we do not need legislative approval for making changes in the lease. But under our Public Lands Act the Legislature must approve sales of land and/or dispositions of interest in land—leases—it must.

So in that context when we read that in [clause] 3(a)(iii)(e) “in the event of early termination (as a result of default by the Developer or its successor in title) of a lease granted pursuant to paragraph (b), grant a lease of a part of the Property to any person”—this is the point that I am asking: How does this comply with the Public Lands Act requiring that dispositions of land must be approved by the House? I would be grateful for that rationale, please.

The Chairman: Thank you very much.

The Chair recognises the Member from constituency 22.

The Hon. Dr. E. Grant Gibbons: Yes, thank you, Madam Chairman. I am happy to help.

It is covered under section 3 of the St. George’s Resort Act where the Minister may convey and lease property to the developer. So it is, in essence, those provisions of a lease being brought to the House are covered in the principal Act itself, okay. So we do not have to bring the lease to the House because the lease is effectively the St. George’s Resort Act 2015, in that sense. There is a separate lease—

[Inaudible interjection]

The Chairman: Thank you.

Are there any Members that would like to speak?

The Chair recognises the Member from constituency 15.

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

I am not sure if . . . now there has been quite a full debate on this particular clause, and I think that should be appreciated because this is a very important development and the process of getting to where it can actually practically be done is . . . has been very important to everyone. Certainly, that is why it has clearly inspired such emotive and serious discussion. And despite what may be believed by persons on the other side or in the listening audience, we on this side are serious about this.

My fundamental question about clause 3 and the points I raised had to do with having a minimum requirement, because I appreciate that there could be different levels of, like degree of variation, that we are talking about. I totally get it. So that is understood, we understand that.

Some of my Members have sort of described much more extensive changes which may be accom-

modated in other aspects of law, such as the DAB and other things. But I raised a point in that there seems to be no explicit—and this is my fundamental question. One of the points I raised . . . there is no fundamental explicit requirement to report those variations back to this House. Not with a view to interrupting or somehow interfering with either the ability of the developer to oversee the property as they . . . you know, under the powers that they are given. But just that the House be informed.

This process is a creature of Parliament. The land upon which they have been awarded the 262 years is public land. So any change to the interrelationship with the land by the developer or how they are going to handle it . . . I think my fundamental question was having a minimum requirement, however minimal these variations might be, that they report it back here because this is land of public concern. It is not a private development. And that should be the minimal requirement with the changes that have been made to the lease and any variations to the lease in my view.

Although other points have been raised about the relationship with the Public Lands Act of which the Minister has explained, fine. Those may be points that we are not going to agree with based on our interpretation as the primacy of the Public Lands Act over everything else. Because there is an assumption that the Public Lands Act has primacy over all areas that are under the Government’s ownership of land, and that there should be some reference to it irrespective of changes that are made.

Now, I do not have the principal Act in front of me, Madam Chairman, but just because it states what the Honourable Minister said in the Public Lands Act it does not give the . . . in the principle Act, I am sorry—

The Chairman: That is fine.

Mr. Walter H. Roban: That does not speak to the primacy of the Public Lands Act, which is supposed to govern all land irrespective, nothing can be done other than what is explicitly outlined in the Public Lands Act.

So those are the concerns we raise based on . . . seemingly missing because this was not explained in the Junior Minister’s brief. Clearly, other Members of the Cabinet are explaining, trying to give explanation. But clearly we are raising these questions because they are not explicitly outlined in what we have heard thus far from the Government.

So I go back to my point that I raised under clause 3 [which] was about those two specific areas and I understand the explanation given by the Minister, but that these variances can be made with no real requirement to report them back. I think we appreciate that changes may be made, nothing is engraved in stone. Once this development begins to take life, as we all hope it does, things may change. Right now,

you know, I do not know, are the plans even approved yet? I do not know.

[Inaudible interjection]

Mr. Walter H. Roban: But I can tell you this, the previous life of this development under the Park Hyatt, we were further on than that when, unfortunately, that development fell away. We were a lot further than where they are now and it still fell away.

An Hon. Member: Yeah, yeah, yeah, yeah.

Mr. Walter H. Roban: So I am not being critical of the Government, I am just describing a statement of fact. And if the Honourable Members do not like that, that is too bad, this is fact. I was a Minister at the time, I know. The plans for the Park Hyatt development were approved October/November 2011. So we were way further ahead, even with that development, with all the same structures that we have here now and it still fell away.

I am not in any way hoping, Madam Chairman, that this happens with that. I am not. Because I think there is this intention sometimes of the other side to imply that somehow we want this to fail. No. And it is unfair and it is preposterous for them to suggest it at this point. But the critique that Members on this side are giving to these two clauses is speaking to concerns that are real.

So I state again: My questions that I fundamentally had were that having a minimal requirement of reporting minimal changes or maximum changes to the lease arrangements back to this House . . . why can that not be a part of it? Even though, as the Minister said, there is no real requirement for the lease to have even been tabled here from it, that is okay. But any changes, as they are explicitly outlining this variation, in the law here why can we not have those changes ultimately . . . whether minimal or maximum in their nature to the implication of the lease, be just reported to the House so that we can note any changes that have happened?

This is public land. I think that is what is being missed. We must not miss the fact that this is public land, two hundred . . . you know, public land that is being released to a private developer for multiple lifetimes. It is a substantial percentage of what little land we have. It is being done in the public interest. It is being done to assist in the economic health of this country. We get it. But raising the questions we have speaks to that issue—this is public land. This is not private land. This is not Tucker's Point . . . Mid Ocean . . . Tucker's Town, this is not that. This is public land, and we raise these questions on these specific points to make sure that there will be constant public accountability and transparency—everybody likes that word these days—on whatever happens with these issues.

The Chairman: Thank you, Member.

Are there any other Members that would like to speak to clauses 1 through 9?

The Chair recognises the Member from constituency 29.

Hon. Zane J. S. De Silva: Thank you, Madam Chairman.

Madam Chairman, I would like to almost continue on from my colleague MP Roban with regard to clause 3. And I am going to move onto clause 3(8), and in particular when we talk about increasing our lease.

One of the things I think we have to be aware of is I know that two years ago, when we debated this for the first time, we were told by the Tourism Minister that he was satisfied and Cabinet was satisfied that financing was in place. And what I think my colleague, Walter Roban, was trying to say is that we were told financing was in place, too, by Mr. Carl Bazarian. But lo and behold, sometimes people run into difficulties along the way. Obviously, that is what happened. And that is what gives us some concern here.

[Inaudible interjection]

Hon. Zane J. S. De Silva: Yes, that is what gives us some concern. And I have to ask the question, Madam Chairman, is that . . . ask the OBA, where are we? And I say OBA because it seems like the Junior Minister has lost his tongue. So I ask the OBA where are we in terms of financing? Because we already know that the OBA gave away Par-la-Ville, so we do not want them to give away this property as well.

The Chairman: Member, I am trying to find where that is in the Bill.

Hon. Zane J. S. De Silva: No, I was just . . .

[Inaudible interjection]

Hon. Zane J. S. De Silva: Madam Chairman, what I am talking about is to clause 3(8) when we talk about a hundred . . . and let me explain that statement about Par-la-Ville. Because we know that the OBA made a big mistake in losing that deal. Not . . . not . . . notwithstanding—

The Chairman: You are drifting slightly away from the St. George's Resort—

Hon. Zane J. S. De Silva: Well, I am trying to—

The Chairman: In fact, it is the other end of the Island.

Hon. Zane J. S. De Silva: Yeah, what I am trying to get at is the principle, Madam Chairman, the principle. The principle of moving this lease from 131—

The Chairman: But Member, we are not in the . . . Right now, we are not in the principle of the Bill. That was discussed prior to Committee.

Hon. Zane J. S. De Silva: No I was not talking about the principle of the Bill, I was talking about the principle—

The Chairman: Now—

Hon. Zane J. S. De Silva: —in terms of real estate and making deals—

The Chairman: —now we discuss in detail.

Hon. Zane J. S. De Silva: —and signing leases, that principle.

The Chairman: That would be general . . .

Hon. Zane J. S. De Silva: Okay I will skip the word *principle*.

The Chairman: Thank you.

Hon. Zane J. S. De Silva: I am trying to get to the point.

The Chairman: We are not in general discussion anymore, that is why . . . that was just an observation.

Hon. Zane J. S. De Silva: I am talking about [clause] 3(8), Madam Chairman.

[Inaudible interjection]

The Chairman: Thank you, Member.

Hon. Zane J. S. De Silva: You know the chirping bird Premier was able to—

The Chairman: Member, we are going to be respectful. I . . . I—

Hon. Zane J. S. De Silva: Yes, we should be. And if you allow the Premier to call me chirping bird, I should be able to call him chirping bird—

The Chairman: I will accept that.

Hon. Zane J. S. De Silva: —for the next hour.

The Chairman: Member, I will accept that. But let us say that we are bigger.

Hon. Zane J. S. De Silva: Okay. Well, I try to be bigger. I want to be on par with the honourable chirping bird from constituency—

The Chairman: Member. Let us just be respectful.

Hon. Zane J. S. De Silva: Okay. I believe in treating those how I am treated. I will respect those that respect me. You want to get in the street and fight I can get in the street and fight, Madam Chairman, you know that.

The Chairman: I prefer not, I am a lady.

Hon. Zane J. S. De Silva: And certainly the Premier knows that too.

But, Madam Chairman, let me just not lose track here. Getting back to [clause] 3(8) where we talk about 131 . . . 131 years as opposed to 262 years. And the reason that I was drawing an analogy is that this Government lost a very valuable piece of property despite telling us in this House that very specific criteria will be adhered to and thorough due diligence will be done to the satisfaction of the Bermuda Government before execution of what is essentially a collateralised mortgage. That was from . . . that was from Premier Michael Dunkley himself made this statement—

An Hon. Member: No.

Hon. Zane J. S. De Silva: —about this \$18 million and the Corporation of Hamilton. That was he who made that statement, Madam Chairman. So what I . . . and the reason I draw that analogy is this: We must be careful if we are going to extend 131 . . . and I know the Honourable Grant Gibbons supports me because he said in this Honourable House when we did the Park Hyatt Act that 260 years was too long. But now, 262 years is okay. So he has had a change of heart. That is okay. But I just draw the point.

[Inaudible interjection]

Hon. Zane J. S. De Silva: He certainly did. I have him quoted right here.

[Inaudible interjection]

Hon. Zane J. S. De Silva: Madam Chairman, I would really like to have the Junior Minister to confirm to us that the financing is in place for this project because it would be a shame for us to put ourselves further on the hook, as it were, if financing is not in place. And . . . and I will take my seat.

The Chairman: Member, I think I am going to remind you that we are sticking to the Bill. We have had some healthy discussion, which I have appreciated, but we

are going to stick to the details of the Bill entitled St. George's Resort.

Thank you very much.

Are there any other Members that would like to speak to clauses 1 through 9?

Thank you.

The Chair recognises the Member from constituency 15.

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

I am not sure we have had all of our questions answered around some of the issues around clause 3. But in order to facilitate this discussion, because I am sure there will be plenty of discussion on things that are to come as well, my question here is based on clause 4, I think, which pertains to the relaxing of the requirements for the Traffic Assessment, [clause] 4(a) and (b) and also the Environmental Assessment.

I think we understand why this is being done. It appears as if the Government is doing everything it can to relax things in order for the developer to . . . to . . . at least from their perception that will help the developer get on with things. Now, we understand that. But again, I mean we raised concerns that making . . . and I remember the explanation given by the Minister as to not . . . if something . . . based on that there has been some . . . you know, with their belief, although we have not seen the Environmental Assessments that have been done. They have not been tabled in this House and made available for anybody to examine, at least not in this House. Maybe others have, that they have been done by Dr. Harris and others. That this is in order that if something arises there is no—

The Hon. Dr. E. Grant Gibbons: Madam Chairman, yes.

The Chairman: Thank you. Member, your point of order?

The Hon. Dr. E. Grant Gibbons: Just a point of clarification, if I may.

The Chairman: Would you yield? Yes.
Thank you.

POINT OF CLARIFICATION

The Hon. Dr. E. Grant Gibbons: The Environmental Impact Assessment and that sort of thing are all in the Planning files so they are publicly available already . . . the Environmental Impact Assessment. The archaeological or historical report that we talked about with Dr. Harris I think is coming at the end of this month, but that probably will be put in the Planning file as well.

The Chairman: Thank you.

The Chair recognises the Member from constituency 15.

Mr. Walter H. Roban: Thank you for that, but my point stands. They have not been presented in this House. And I am not suggesting that that is a problem. I am just suggesting that that is the only reference point that we have. And fine, anybody can go look at the Planning file and inspect those so, okay, we totally understand that.

But I think there is a concern because of the magnitude of this . . . the relevance that this sort of relaxation is not necessarily a wise move. Fine. Something a little bit more smaller in scope, but as I said before, fundamentally, Madam Chairman, on this side of the House, because as I stated earlier, this is public land. It is a substantial amount of public land, that there is a higher standard that has to be observed with this development. With the substantial nature of it, with the time and control that this developer is going to have on the land, that there is a higher standard of due diligence in the public interest required because it is not private land.

So when there is a relaxation of some of these provisions which are standard in our law . . . you know there was great discussion some years ago, some of it I guess put forward by the Ombudsman, that Environmental Impact Assessments should be mandatory in all circumstances, you know. And this sort of cultivated great discussion. And certainly other advocates for the environment have pushed for Environmental Impact Assessments being always in place and that the rigidity of them being a part of our system is important. And we were content because this is a significant amount of public land that this relaxation may be unwise. And removing these assessments may be unwise.

We have heard the Government's explanation for it and understand it does not . . . because substantial has been done, if at a . . . and it does not just say generally, but also parts of. As we know, they have not done any digging yet there. If on a part of a development digging is done and something is found which was not considered or discovered with the original assessment, it can be, or might be, said that that one needs to be done again on even that little part. So that is a concern here that we are relaxing certain provisions to get things on, but it presents a risk.

So we understand the explanation of the Minister. But we still raise a concern that these sorts of relaxations are unwise. And that, certainly, if an Impact Assessment is required for something that is unanticipated, it should be something that is mandatory rather than at the discretion, because who knows? At some point in the future where this development is going on, there may be extreme amount of pressure on the developer to get things going.

Sometimes these discretions . . . and I am not suggesting that this is where Government will go [or]

might be under undue influence because, *Listen, if we do this we are slowing up the developer*. The developer is arguing that it is going to cost them money without actually proving that it is going to cost them money and we might say, *Okay, let's give them a break this time*. But that presents an environmental risk. So that is why we are concerned about these provisions and these levels of relaxation that this particular Bill presents.

And as we moved all the clauses, let me just make it clear, you know, there are only a couple of clauses that are raising this concern from us out of the whole [nine]. It is not all of them. Obviously, [clause] 3, this one, and perhaps . . . that might be it, just [clauses] 3 and 4 of all of the [nine], because the rest seem to be pretty much housekeeping.

So I hope the Government appreciates that we are raising these concerns. We are not trashing the whole Bill. It is just these provisions here that we are raising up questions on. So I raise that question on [clause] 4(a) and (b) just so it is noted for the record. We have heard the explanation of the Minister, fine, but we still have our concerns.

The Chairman: Thank you, Member.

Are there any other Members that would like to speak to clauses 1 through [9]?

The Chair recognises the Member from constituency 22.

The Hon. Dr. E. Grant Gibbons: Yes, thank you, Madam Chairman.

I did try and answer this a little bit earlier on and I understand the Honourable Member's concern with respect to clause 4. Just for absolute clarity here, in principle, Planning stuff has already gone in. They have done their Environmental Impact Statement, so what we are talking about here is . . . and this is not a ministerial discretion, this is of the Planning Board, okay?

Let us suppose they get a little farther down the road and they want to move a road by 10 feet one way or another, okay? It may not be material, it may not be all that important, but we are leaving it up to the Planning Board as to whether they have to redo an Environmental Impact Assessment simply by shifting a road 10 feet one way or another. It may be very important and the Development Applications Board may say, *You've got to redo it because it's coming up against a sensitive fort area*. On the other hand it may be inconsequential. So it is really up to the Development Applications Board as to whether they consider it to be material, important, whatever.

So that is the issue right here as opposed to making it mandatory and making the developer go through an entire reiteration of a traffic planning thing or an Environmental Impact Statement. So that is really all we are talking about here. Not ministerial responsibility, this is a Planning Board thing, they will

have a pretty good sense based on technical advisors and the rest of it as to whether something needs to be redone or whether it is, as I said, insubstantial. So I will leave it there.

Thank you.

The Chairman: Thank you.

Are there any other Members that would like to speak to clauses 1 through [9]?

The Chair recognises the Member from constituency 29.

Hon. Zane J. S. De Silva: All right. Thank you, Madam Chairman.

Madam Chairman, before I ask any more questions . . . and there have been many comments, but there have also been several questions, I was wondering if the Junior Minister wanted to try to reply to some of those before we fire off our next set of questions.

The Chairman: Do you have any . . . so your question was would the Junior Minister like to respond to any of the questions?

[Inaudible interjection]

The Chairman: And I am sure the Junior Minister will take to the floor—

[Inaudible interjection]

The Chairman: I am sure the Junior Minister will take to the floor.

Are there any other Members that would like to speak to clauses 1 through [9]?

There are no other Members that would like to speak to clauses 1 through [9].

The Chair recognises the Junior Minister.

Hon. Kenneth (Kenny) Bascome: Yes, thank you, Madam Chairman.

First of all, the financing for the project is in place. Secondly, training for Bermudians will be assured to take place. So that is to the Honourable Member from constituency 29.

And the hotel will be built first. That is to that Honourable Member from constituency 29.

Hon. Zane J. S. De Silva: When are they starting?

The Chairman: Thank you.

Are there any other Members that would like to speak to clauses 1 through [9]?

The Chair recognises the Member from constituency 29.

Hon. Zane J. S. De Silva: Thank you, Madam Chairman, and thank you, thank you, Junior Tourism Minister.

And I thank him for that, for the confirmation that the hotel will be built first. Two more questions on that. One, did you have a start date, Junior Minister? That would be great if you could give us that because that would certainly let us know when the lease would start, so that would be great if you could give us a start date. And the Honourable Minister Cole Simons, I think, from constituency 8 (or 9) told us earlier, certainly indicated, that the project would be finished sometime in the next year. So I would like confirmation of that, as well, from the Junior Minister since his senior Minister, Cole Simons, has made the statement in the House.

The Chairman: Thank you.

Statements may have been made in the House, but I will remind everyone that we are specifically talking in Committee to a Bill entitled St. George's Resort Amendment Act. A start and end date is not listed in this Bill, but I am going to turn to the Junior Minister.

Hon. Kenneth (Kenny) Bascome: Yes, Madam Chairman, it is hoped that the planning process will be complete by the end of December, and, hopefully soon after, the project will be started.

I have spoken with the developers on three or four occasions, and I must make this point. I have said to them and their architect that we need to recognise the significance of Gates Bay seeing that it was where the settlers first came ashore. And the beauty of this particular debate right now [is that] most of these Members probably will not even remember when the Holiday Inn was granted permission to develop on top of the hill. Many of these Members will not even remember that. I do. And there was a saying back and forth, back and forth. And I have a battle scar from that project, Madam Chairman. My right leg has a false kneecap as a direct result of the building of the Holiday Inn hotel.

The Chairman: Thank you.

Are there any other Members who would like to speak to the Bill? The Chair recognises the Member from constituency 29.

Hon. Zane J. S. De Silva: Thank you, Madam Chairman, and I think this might be my last question, unless someone else gives me reason to ask any more.

I thank you again, Junior Minister, for confirming that you hope that we start next year, because I certainly hope that you are correct, for the sake of Bermuda and for many of those who are out of work.

Having said that, Junior Minister, has the developer given you any indication that if they were to start, and let us just pick a date, say, March or April

next year, did they give you an indication of when they might open the doors thereafter?

The Chairman: The Chair recognises the Junior Minister. Again, that has nothing to do with the Bill ahead of us, but if the Junior Minister would like to answer that question, perhaps he can do so.

Hon. Kenneth (Kenny) Bascome: Yes, I will, because that Honourable Member, as a person who is involved in construction, should know that projects do not always go according to plan.

Hon. Zane J. S. De Silva: That is true.

Hon. Kenneth (Kenny) Bascome: And I thank you, yes, sir.

The Chairman: Thank you.

Are there any other Members who would like to speak to clauses 1 through 7 [sic]?

If not, Junior Minister, would you like to move the clauses?

Hon. Kenneth (Kenny) Bascome: I move the preamble.

The Chairman: We are going to move the clauses first.

Hon. Kenneth (Kenny) Bascome: [Clauses] 1 through 7[sic]?

The Chairman: Yes.

Hon. Kenneth (Kenny) Bascome: I move that the clauses 1 through 7[sic] be approved.

[Inaudible interjection]

The Chairman: There were nine? Sorry, [clauses] 1 through 9.

Mr. Walter H. Roban: Yes, there are nine—

The Chairman: It has been moved that clauses 1 through 9 be approved as printed. Is there any objection to that motion?

No objections.

Agreed to.

[Gavel]

[Motion carried: Clauses 1 through 9 passed.]

The Chairman: The Schedules?

Hon. Kenneth (Kenny) Bascome: I move the Schedules.

The Chairman: It is moved that the Schedules be approved.

Are there any objections to that motion?

No objections.

Agreed to.

[Gavel]

[Motion carried: Schedules passed.]

Hon. Kenneth (Kenny) Bascome: I move that the Bill be reported to the House as printed with all amendments.

The Chairman: We are going to move the preamble.

Any objections to the preamble?

No objections.

Agreed to.

[Motion carried: Preamble passed.]

The Chairman: Now, Honourable Junior Minister, we are going to move the Bill.

Hon. Kenneth (Kenny) Bascome: I move that the Bill be reported to the House as printed or amended.

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

Any objections to that motion?

No objections.

Agreed to.

[Gavel]

[Motion carried: The St. George's Resort Amendment Bill 2016 was considered by a Committee of the whole House and passed.]

Hon. Kenneth (Kenny) Bascome: Thank you.

House resumed 5:35 pm

[Hon. K. H. Randolph Horton, Speaker, in the Chair]

REPORT OF COMMITTEE

ST. GEORGE'S RESORT AMENDMENT BILL 2016

The Speaker: Honourable Members, the Second Reading of the St. George's Resort Amendment [Bill 2016] has been approved as printed. Are there any objections to that?

We now move on to the next matter on the Order Paper, which is consideration of the Casino Gaming (Designated Site) Order 2016, in the name of the Honourable Minister of Economic Development, Dr. Grant Gibbons.

You have the floor.

ORDER

CASINO GAMING (DESIGNATED SITE) ORDER 2016

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

I move that consideration be given to the draft Order entitled the Casino Gaming (Designated Site) Order 2016, proposed to be made by the Minister responsible for Gaming conferred by section 4(1) of the Casino Gaming Act 2014, acting under the advice of the Bermuda Gaming Commission.

The Speaker: Thank you.

Are there any objections?

Then please carry on, Minister.

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

Mr. Speaker and Members of the House, I am pleased to introduce the Order entitled the Casino Gaming (Designated Site) Order 2016. This Order relates to the St. Regis Hotel and Resort to be situated at the old Club Med site in the town of St. George's.

Honourable Members will recall that the purpose of the Casino Gaming Act 2014 is to provide for a licensing and regulatory regime for gaming in Bermuda, which includes gaming in hotel resorts that are granted a licence to operate a casino within their premises in accordance with section 38 of the Act.

Mr. Speaker, under the Act, the first step in a casino licensing process is the application for site designation. In accordance with the Act, a designated site is defined as "any parcel or parcels of land or any building or part thereof and the land on which it stands designated by the Minister under section 4 as a site on which a casino may be located."

In order for a resort hotel to operate a casino the owner of land or an existing tourist resort who wishes to have their property designated under section 4 must make an application to the Minister for that purpose. Section 4A of the Act requires that a site designation application must be made in such form as the Gaming Commission may, from time to time, approve. The application must be accompanied by the prescribed fee and such information as plans, specifications, drawings, reports, and other documents, as may be prescribed.

Mr. Speaker, in June of this year the Fairmont Hamilton Princess and the St. George's Hotel Resort projects applied and were named as designated sites, thereby making them eligible to apply for casino licences. Following application, both projects were recommended for designation by the Bermuda Casino Gaming Commission and subsequently approved by the Minister responsible for Gaming.

Mr. Speaker, upon approval of the application to become a designated site, subject to section 4(1) of the Act, the Minister, acting on the advice of the Commission made by order published in the *Gazette* designated a parcel of land or an existing tourist resort as a site for an integrated resort. If any condition imposed in relation to a Designated Site Order has not been complied with, or begun within a specified period in relation to the order, this may result in the order being revoked and a new application being required to be made.

Mr. Speaker, an order made by the Minister within the authority of the Act is subject to the affirmative resolution procedure, hence, the Designated Site Order before this Honourable House today.

Thank you, Mr. Speaker.

Mr. Speaker, let me just touch briefly on some of the paragraphs since we are going to be doing this in the House—

The Speaker: Yes—

The Hon. Dr. E. Grant Gibbons: —and not going into Committee.

The first paragraph is simply the citation, which is the Casino Gaming (Designated Site) Order 2016,

Designated site, paragraph 2, essentially sets out “All those parcels of land in the parish of St. George’s, Bermuda, described in Schedule 1, as shown delineated and outlined in red on the Department of Land Surveys and Registration Property Plans that are set out in Schedule 2, are hereby declared to be a designated site for an integrated resort for the purposes of section 4 of the Casino Gaming Act 2014 for a period of five years from the date of publication of this Order.”

And it then goes on in Schedule 1 to give a fairly long and lengthy description of the parcel of lands in St. George’s which constitute the designated site. So I am not going to go through those, Mr. Speaker, I think that is mostly survey language.

I think, Mr. Speaker, those are the only points that I wanted to make. Thank you, sir.

The Speaker: Okay. Thank you very much.

Any other Honourable Member care to speak?

The Chair will recognise the Honourable Deputy Leader of the Opposition, MP Roban.

You have the floor.

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

We do not have any real issues with the orders that are done in the constituency in which the Act describes. So perhaps others have something to contribute or will ask some questions. But we on this side do not have any general issue with these orders.

The Speaker: All right. Thank you.

Any other Honourable Member care to speak?
The Chair will recognise the Honourable Member from constituency 5, MP, D. V. Burgess.
You have the floor.

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

Just looking at this property plan for the road, presently you can enter the beach—

The Speaker: Are you looking . . . which Schedule are you looking at?

Hon. Derrick V. Burgess, Sr.: Schedule 2.

The Speaker: Schedule 2? Okay.

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

Presently you could enter the beach from both sides of the . . . coming from Tobacco Bay, that way, and coming from the Barry [Road] way. Will that continue? Because the way I understand this here, and correct me, and I could be wrong, the road from Barry Road is to be cut off to the back just beyond the cemetery, but there will be a gate up there and you can only come . . . the public can only come the other way. I do not know if I have it right or wrong.

The Speaker: Does anyone else care to speak before the Minister responds?

You can respond to that, Minister.

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

First of all, let me thank Honourable Members for their support. I will be honest, I will have to find the answer to that. It really has nothing to do with the site designation, that is more of a Planning issue, I believe.

[Inaudible interjection]

The Hon. Dr. E. Grant Gibbons: I understand it is attached, but the question you are asking is a Planning application, in terms of how the roads are run. All this does is specify the area that will be designated as approved as a designated site.

[Inaudible interjection]

The Hon. Dr. E. Grant Gibbons: Yes.

So, I was not prepared for a Planning question in that sense. But we will see if we can get you the answer to that particular issue of how Barry Road goes.

With that, Mr. Speaker, . . . let's see—

The Speaker: Are there any other Members who care to speak first?

No?
All right, carry on Dr. Gibbons.

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

I move that the draft Order be approved and that a message be sent from this Honourable House to Her Excellency the Acting Governor.

The Speaker: Thank you. It has been moved that [a message] be sent to the [Acting] Governor, about the Casino Gaming (Designated Site) Order 2016.

Are there any objections?

There are none. So that [message] will be sent.

Thank you, you may carry on with the next.

[Motion carried: The Casino Gaming (Designated Site) Order 2016, was considered by the House and approved.]

ORDER

CASINO GAMING (DESIGNATED SITE) (NO. 2) ORDER 2016

The Hon. Dr. E. Grant Gibbons: I move that consideration be given to the draft Order entitled Casino Gaming (Designated Site) (No. 2) Order, 2016, proposed to be made by the Minister responsible for Gaming, conferred by section 4(1) of the Casino Gaming Act 2014, acting under the advice of the Bermuda Gaming Commission.

The Speaker: Thank you.

Any objections to that?

There are none. So please carry on.

The Hon. Dr. E. Grant Gibbons: Thank you, Mr. Speaker. I will be brief, but I am going to repeat some of the same things because we are going through a different site.

Honourable Members will recall that the purpose of the Casino Gaming Act [2014] is to provide for a licensing and regulatory regime for gaming in Bermuda, which includes gaming in hotel resorts that are granted a licence to operate a casino within their premises in accordance with section 38 of the Act. And this is what we are talking about, an existing resort in this case.

In order for a resort hotel to operate a casino the owner of land or an existing tourist resort who wishes to have their property designated under section 4 must make an application to the Minister for that purpose. An application must be made in the said form as the Gaming Commissioner may, from time to time, approve. And it must be accompanied by the prescribed fee and contain such information as plans, specifications, drawings, reports, and other documents, as may be prescribed.

In accordance with the Act, a designated site is defined as “any parcel or parcels of land or any building or part thereof and the land on which it stands designated by the Minister under section 4 as a site on which a casino may be located.”

Following their application earlier in June of this year, the Fairmont Hamilton Princess was named as a designated site, thereby making them eligible to apply for casino licence. They are recommended for designation by the Bermuda Casino Gaming Commission and subsequently approved by the Minister responsible for Gaming.

The Speaker: A question, are they having fun outside or something?

An Hon. Member: I have no idea. I’m in here, Mr. Speaker.

The Speaker: Are they gambling out there?

An Hon. Member: I don’t have a clue as to what is going on out there.

The Speaker: Sergeant-at-Arms, let them know that there are people in here doing business.

Carry on please, Honourable Minister.

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

Maybe unbeknownst to us the House was designated as a—

The Speaker: As a casino!

[Laughter]

An Hon. Member: Yes. Maybe a casino has been added in here.

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

The Speaker: Carry on please.

The Hon. Dr. E. Grant Gibbons: So, upon approval of an application it became a designated site, subject to section 4(1) of the Act. The Minister, acting on the advice of the Commission made by order published in the *Gazette* designated a parcel of land or an existing tourist resort as a site for an integrated resort. If any condition imposed in relation to a Designated Site Order has not been complied with, or begun within a specified period in relation to the order, this may result in the order being revoked and a new application being required to be made.

Mr. Speaker, an order made by the Minister within the authority of the Act is subject to the affirma-

tive resolution procedure, hence, the Designated Site Order before this Honourable House today.

And Mr. Speaker, I do not think I need to go through and describe the paragraphs again. I think people —

The Speaker: I don't think so.

Are Members happy with that?

All right. Thank you, Dr. Gibbons.

Any other Member care to speak?

None?

All right, then Dr. Gibbons, do you want to wrap it up?

The Hon. Dr. E. Grant Gibbons: I would be delighted, Mr. Speaker.

Mr. Speaker, I move that the draft Order be approved and that a message be sent from this Honourable House to Her Excellency the Acting Governor.

The Speaker: Are there any objections to that?

There are none. So the draft Order has been approved and a message will be sent to the [Acting] Governor.

[Motion carried: The Casino Gaming (Designated Site) (No. 2) Order 2016, was considered by the House and approved.]

The Speaker: Thank you.

We now move on to Order No. 5, which is the Casino Gaming Amendment Act 2016. And that goes under the name of the Minister for Economic Development, Dr. Grant Gibbons.

You have the floor.

BILL

SECOND READING

CASINO GAMING AMENDMENT ACT 2016

The Hon. Dr. E. Grant Gibbons: Thank you, Mr. Speaker. Just bear with me a second, I am shifting papers around here.

The Speaker: Take your time.

The Hon. Dr. E. Grant Gibbons: I move that the Bill entitled the Casino Gaming Amendment Act 2016 be now read the second time.

The Speaker: Are there any objections?

There are none.

Carry on, Minister.

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

I am pleased to introduce the Bill entitled the Bermuda Casino Gaming Amendment Act 2016, on behalf of the substantive Minister of Tourism, Transport and Municipalities, Senator, the Honourable Michael Fahy.

Mr. Speaker, the purpose of this Bill is to amend the Casino Gaming Act 2014 to streamline the process relating to the introduction of casinos to Bermuda.

As Honourable Members will be aware, Bermuda has utilised Singapore as the primary model for our gaming industry, and the 2014 Act has been adapted from the Singapore model.

Mr. Speaker, in comparison to Singapore, the important facts to consider are as follows:

Singapore is a fundamentally different market with a different culture.

- The Singapore regulatory entity employs almost 200 people, spends US\$24 million annually, and receives substantial assistance from the Singapore police force.
- Development of their regulatory process involved hundreds of regulators, dozens of consultants, and expenditure of over \$200 million during the development process, which took almost seven years.
- In Singapore the regulatory agency was spending approximately \$10 million per year and in the two years immediately prior to the opening of the first casino costs increased to \$30 million per year.

Mr. Speaker, the Bermuda Casino Gaming Commission was established in 2014 and is responsible for the regulation of casino gaming activities in Bermuda and advises the Minister generally in respect of policy relating to casino gaming. One of the initial tasks of the Commission was to thoroughly review the 2014 Act to advise the Minister on the amendments which should be made to ensure the legislative framework met Bermuda's needs and international best practice.

Mr. Speaker, as part of the consultation process, the Commission held various stakeholder meetings with the Commissioner of Police, the US Consul General, His Excellency the Governor, the Minister of Finance, the Bermuda Tourism Authority, the National Anti-Money Laundering Committee (or NAMLC), the big four local accounting firms, the banking sector, including foreign correspondent banks, gaming industry experts, addiction service treatment providers, and the Financial Intelligence Agency (or FIA).

The Commission continues to engage in stakeholder outreach and communication with the general public, to keep them abreast of the Commission's progress towards the full implementation in Bermuda. The Commission also met with representatives from the Cabinet Office and the Information Commissioner's Office regarding the Public Access to

Information Act 2010 (otherwise known as PATI). PATI provides access to information held by public authorities to members of the public which, by definition, includes the Gaming Commission.

Mr. Speaker, as part of its strong supervisory and regulatory regime the Commission will receive sensitive information from many sources including foreign regulatory bodies and local and international law enforcement agencies. Therefore, it is essential that this information remain confidential. In essence, if it is not protected the information will not be provided. To that end, the Act will be amended to ensure that when the Commission receives confidential and sensitive information from foreign regulatory bodies in accordance with the Memorandum of Understanding during the vetting and investigation process, that information, including general administrative documents, is protected from PATI disclosure. Penalties for the unlawful release of such information will be increased and brought into line with those of the Bermuda Monetary Authority and Financial Intelligence Agency.

Mr. Speaker, to achieve the public policy goals of the Act, this Bill and the amendments before the House are designed to have the Commission operate as follows:

- 1) Offer an approach that is appropriate to the social, cultural, and economic realities of Bermuda, including a human resource policy of being staffed by a limited number of high performance individuals comprising the regulatory leadership team.
- 2) To work in a collaborative fashion with other global regulatory entities to achieve efficiencies and avoid unnecessary duplication of efforts, and to utilise third party forensic accounting, criminal and civil suitability investigations, compliance auditing assistance, and for technological standards and testing.
- 3) To implement a mandated operator-compliance committee approach whereby the operator shares the regulatory burden in Bermuda with the Commission's staff performing audits to ensure compliance. The operator compliance committee is required to report all compliance failures to the Commission's staff. These compliance committees will perform an important role in interfacing with the Commission, and will ultimately be responsible for ensuring compliance with the robust regulatory regime envisioned by the Commission. This will be subject to the direction of the Commission and will take on such tasks as may be specified under the Act, accompanying regulations and any other enactment. These compliance committees will help the Commission adopt an appropriate balance between its role as the responsible regulator and a risk-based approach to regulation allowing the Commis-

sion to concentrate its resources on some of the more complex matters relating to casino gaming.

- 4) To utilise an evidence-based best practice approach in developing a program to provide protections for the vulnerable, which includes underage persons, problem and pathological gamblers, the Commission will work in concert with existing local treatment providers. The Government and the Commission remain committed to addressing problem gaming and protecting the vulnerable and their family.

Vulnerable individuals, and those with an addiction to gaming, are already present in Bermuda. They are able to feed their habit by way of illegal gambling and the loosely regulated gambling already on Island. At present there are no protections and no assistance whatsoever available to those individuals. It is a primary objective of the Commission to ensure that prior to the opening of any casino, the Problem Gaming Council has been established, casino operators and their employees are fully trained in responsible gaming, and treatment providers are available for those in need.

The Bill will also provide for the creation of the post of Director of Problem Gaming in order to provide the Commission with the appropriate resources and technical expertise to combat problem Gaming.

Mr. Speaker, it is important to note that the existing provisions of the Act relating to Exclusion Orders do not properly distinguish between self-exclusion and compulsory exclusion orders, in relation to the sanctions which result from a breach.

A compulsorily excluded person is most likely going to be a known criminal or a cheat, whereas the self-excluded person suffers from an illness such as the problem of pathological gambling. This omission in the 2014 Act will be rectified in the Bill to ensure that those with gambling problems are appropriately managed.

Mr. Speaker, the intent of the Casino Gaming Act 2014 was to enhance investment and employment in Bermuda through the introduction of up to three integrated resort casinos. In order to ensure the orderly introduction and operation of these facilities, the Commission must satisfy the following five goals in the execution of its duties:

- 1) The owners, vendors, managers, employees, and sources of finance should be free from any inappropriate past or present associations and behaviours, and uphold high ethical standards.
- 2) The casinos should possess sound operational and financial controls.
- 3) The games offered should be fair, honest, and operate with a high level of security and integrity.

- 4) All fees, taxes, and related payments, should be appropriately accounted for and paid; and
- 5) Controls should be in place to protect the vulnerable and their families.

Mr. Speaker, to secure a casino licence, there is a three-stage application process which is being introduced by the Bill, consisting of, first of all, the designated site stage; secondly, the provisional licence stage; and thirdly, the final stage of the awarding of a casino licence once the suitability of the operator has been established.

The Bill provides that once a site has been designated, the Commission then considers the proposal for viability at the provisional stage through the RFP process. The conditions which may be imposed or attached to any provisional licence would be requirements relating to the hiring of Bermudians, the size of the investment in the casino facilities, requirements with respect to Anti-Money Laundering controls, and for the mitigation of security and traffic issues, among others. A potential requirement could be for the operator to establish a viable casino gambling programme.

The final stage and a casino licence are only approved once the vetting and suitability of the operator have been established. Where issues arise during the suitability stage, the applicant can take the necessary steps to resolve those issues.

Mr. Speaker, it is important to note that a provisional licence will not permit gaming as it is not a licence to operate a casino. Let me repeat that: It is important to note that a provisional licence will not permit gaming as it is not a licence to operate a casino.

As a part of the three-stage application process the provisional licence will confirm that, subject to suitability, the applicant is eligible for a full casino licence. A provisional licence is intended to provide a qualified level of comfort to an applicant to begin construction of an integrated resort and casino while simultaneously undergoing the rigorous suitability tests together with the other formalities of the application process, including possible conditions.

Mr. Speaker, the Commission may grant a maximum of three provisional licences. Those licences are in addition to the provisional licence which is being granted, in the public interest, in the Bill itself to the developer, as defined in section 2 of the St. George's Resort Act 2015. Such a provisional licence is to be granted by the legislation in the public interest, and this is indicative of Government's commitment to resort development and ensuring job creation in the East End in particular.

The development of this resort hotel in St. George's is essential for the economic revitalisation of the Town of St. George and Bermuda's Tourism Industry, so a decision was made by Government that a

provisional licence should be granted to the St. George's Resort Developers. This provisional licence simply means that they can begin constructing the resort, which includes a purpose-built casino. It means shovels in the ground and employment in our construction industry. For the avoidance of doubt the St. George's Resort provisional licence will be subject to the standard conditions as other licences are, such as the percentage of Bermudians to be hired, training, and Anti-Money Laundering requirements, among others.

It does not mean or, indeed, guarantee that a full casino licence will automatically follow, and the Bill stipulates that this public interest provisional licence is subject to all of the Commission's regulatory processes, including the "suitability" test and other investigations prior to the granting or refusal of a casino licence.

Mr. Speaker, the casino licensing process cannot begin until this amendment Bill is passed, a number of subsequent application and licensing regulations are enacted, and the Request for Proposal (or RFP) process is opened and closed by the Commission. Consequently, a decision had to be made sooner rather than later with respect to the St. George's Development.

Mr. Speaker, while there are a number of amendments in this Bill, they are necessary for the Commission to achieve their stated aims and objectives. However, I wish to make special mention of three key amendments which are new and intended to provide a significant competitive edge for Bermuda's casinos:

Firstly, eGaming: [E]Gaming is the ability to game on a mobile device such as a tablet which is accessed via a local area network or through the Intranet provided by the hotel operator. Its availability can be limited to patrons of the integrated resort. It can also be limited geographically and when the device leaves an eGaming area it will automatically shut off.

To be clear, eGaming is not Internet gaming. It is in fact, in-tra-net gaming, and with the technology now available it can be ring-fenced or geo-fenced by area. For example, Intranet gaming would allow a guest to participate in gaming whilst at an adult pool area where no minors will have access or by floor levels where the hotel can have adult only floors. [E]Gaming is in practice identical to gaming on a physical machine in the casino. The only difference being that the machine is small and light enough to be mobile.

At present Internet gaming is not unlawful in Bermuda provided that the company is a foreign-based company. Therefore, a patron of the casino can access gaming websites whilst sitting at a pool or at the bar on the casino premises. Under the current scenario (which is, Internet gaming is not unlawful) all funds leave Bermuda and are received by a foreign

entity and not a casino operator. No tax is paid in Bermuda nor are there anti-money laundering or any other types of protections in place.

Bermuda's resort model of gaming has a very limited revenue window where guests who have a great deal to do during the day such as golf, beaching, and shopping will go to dinner at night and after dinner between the hours of, say, 10:00 pm to 1:00 am spend time in the brick-and-mortar casino. Therefore, eGaming is ideal for casino operators operating in the integrated resort model, as it permits gaming to continue while other amenities are being utilised, provided that such the amenities are within an area that has been designated.

[E]Gaming does not require the use of external telecommunications and it is actually better regulated than the games within the physical casino because there is a digital record of every transaction. It is a significant attraction for operators and patrons alike.

The second new item is betting: As previously stated, foreign-based betting websites are accessible in Bermuda. It is therefore possible for a patron of a casino to place bets without leaving the casino premises. However, the casino operator is currently not permitted to offer betting without complying with the provisions of the betting legislation and obtaining a betting licence.

Betting on actual and fantasy events, as Honourable Members may be aware, is rapidly expanding in terms of popularity and revenue, and during major sporting and other events is likely to be a big draw for tourists, particularly those from the US East Coast where sports betting is unavailable. The inclusion of betting is therefore necessary and is likely to result in a significant increase in revenue.

Third, anti-Corruption and Bribery: Due to the potential high sums and high cash turnover, the gaming industry is a prime target for corruption. It is therefore imperative that the relationship between individuals charged with functions relating to gaming and the casino industry be as transparent as possible.

The Bill provides a "cooling off" period where Commissioners, Commission staff, and some government employees and government officials working in the area of gaming, including sitting MPs, will be prohibited from taking employment or other positions that provide the opportunity for, or give the appearance of, corruption and bribery. These "relevant officials" will be subject to certain restrictions, such as holding an interest in a casino or providing goods and services to a casino, during the time they hold office and for a certain period after they cease to hold office.

Such a provision, sometimes referred to as a "post separation employment provision," is in the public interest and is considered best practice in other jurisdictions such as the United Kingdom, Australia, Canada, Pennsylvania, New Jersey, Nevada, and California relating to ministerial conduct.

Mr. Speaker, as a consequence of the many benefits outlined, the Government is supportive of the Bermuda Casino Gaming Commission and the amendments to the Casino Gaming Act 2014. We look forward to working with the Commission as they implement a well-regulated casino gaming ecosystem.

Thank you Mr. Speaker, I now invite my honourable colleagues to participate.

The Speaker: All right, thank you Minister.

The Chair will now recognise the Deputy Leader of the Opposition from constituency 15, MP Roban.

You have the floor.

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

I wish to thank the Minister for that presentation, and to also thank him for the brief that he has provided for me to follow.

Let me say first that the Opposition welcomes this discussion on this particular matter. As it can be remembered, Mr. Speaker, the question of gaming has had a very interesting journey in this country over the last three years, filled with much drama, much controversy, and perhaps it may now finally be finding a bit of sanity as it relates to us finally having a body in place beyond the sort of political atmosphere that initially percolated around gaming that will play a role with this regulation and the sustainability, hopefully as a positive component of the Bermuda environment. I think that is why it is crucial to their process that we all know the history of gaming going back, at least modern gaming, and I am talking about 20th century gaming not here. Let us just have a bit of a reality statement. There has been gambling going on in Bermuda for almost as long as our history. Let's make that clear.

So, I am not going to stand up here and suggest that, you know, Crown and Anchor . . . but other things have been going on around here other than Crown and Anchor in this country. I am not saying that I do it; I am just saying that is just what I know.

[Inaudible interjection]

Mr. Walter H. Roban: I am not suggesting that. I am just saying that is what I know.

[Laughter]

Mr. Walter H. Roban: It is what I know, what I have been told and what I have seen, but not necessarily what I have done. I am not a gambling person, so . . .

But, certainly, the modern history of gambling has been filled with elements that we have often found unpleasant, and which contributed to perhaps its journey to an industry now that has perhaps taken its own efforts to better manage its affairs, allowing a level of Government oversight which allows it to operate in a

way that perhaps makes people feel comfortable by gambling and not engaging in a questionable activity because some of the by-products of gaming that were historical have either been pushed away or are enforced strictly in order that they do not damage the industry.

I am speaking from a general global concept. You know, we have professional people who have global experience who move from jurisdiction to jurisdiction attempting to make sure that gaming in whatever jurisdiction it is in . . . this modern era is something that is a legitimate industry like other industries in a particular country that handles money, that promotes itself as a product, that seeks to attract customers, and there is a level of customer satisfaction by the experience. That is what they try to do with gaming, rather than being seen as a bit of a parasite on perhaps people who have compulsive negative behaviours, and taking advantage of the innocent and not-so-innocent. Perhaps gaming is looking overall to be like that.

Let me just say that I believe that perhaps the initial intention was (and certainly has been) that this is how Bermuda will take on gaming—as a properly regulated, organised industry that can be a suitable amenity to the Bermuda experience, in particular, for our visitors. That has been the goal.

So we accept that the creation of the Bill in 2014, and where we are now, is an effort to do that. We now have a Commission that has commissioners attempting to create the structure and the pathway that Bermuda will take when it comes to gaming and how we will manage our wider gaming environment going forward in ways that it has not been. And despite that many Bermudians have enjoyed certain legitimate gaming, [they are] now going to find [themselves] in a much more different environment than in the past. I believe that that is popularly accepted and people understand that.

So, we had the Act in 2014 pass (I believe it was 2014) for the initial establishment for the purpose of bringing a properly regulated gaming environment to Bermuda. And I will tell you, Mr. Speaker, I am purposely trying . . . I cannot assure you that some of my other colleagues will not venture into some other issues that we have seen. But I am doing my best to lead the debate on the Bill that has been passed. But I can tell you that some of my colleagues have other things they want to talk about around gaming, and the Government should be prepared for that. And do not be surprised that they come up, because there are Members on this side that have very strong feelings about gaming, and will bring those to the fore. And I think that they should be allowed to do so.

But going back to this Bill as we are seeing it now, here we are on our journey from the 2014 Act. We now have the Casino Gaming Amendment Bill 2016, Mr. Speaker, with 60-plus amendments. We are told by the Government that these amendments are a

direct result of the original Bill, perhaps beyond the political environment and, like, beyond the objectives that the OBA Government sought to originally put in place. Once the professionals and the Gaming Commission and the persons who were tasked with taking a more objective approach to the overall management of gaming, certain things were discovered.

Now, this Commission has been put together to ensure that it creates an environment in which casinos can be profitable while maintaining a proper regulatory protection in our jurisdiction. And the mandate as devised, Mr. Speaker (if you will just allow me to read a few notes), is to “offer an approach that is appropriate to the social, cultural, and economic realities to Bermuda,” to offer human resources “policy that will be staffed by a limited number of high performance individuals comprising regulatory leadership team. To work in a collaborative fashion with other global regulatory entities to achieve efficiencies and avoid” duplicate action.

I think that is actually some of the positives this amendment Bill is seeking to bring about. It acknowledges that we are not just going to be on this little Island in the mid-Atlantic with our own little unique gaming scenario. We are part of a wider environment, an international environment which, as I said before, gaming now is a regulated and business like industry globally that has standards that seek to ensure that by keeping certain levels of proper operation they can develop and grow just like any other business. So, some of it is self-regulation, and some of it is Government. And they have taken this on and made it a part of how they structure themselves. So Bermuda is not going to be just out here in the middle of the Atlantic with some cowboy operation (if I can just use that language). No. We are going to be part of a wider regulatory environment that recognises and respects what is happening in other parts of the world.

Things that are happening in whatever part of the world and that are good, we are going to look at and Bermudianise. But things that may not work for Bermuda we are going to ignore, and we will just look and take things that can help Bermuda’s environment and management of gaming to be done right. So that is a good thing.

Certain compliance levels are going to be set, Mr. Speaker. Some of the compliance is going to be self-compliance; others will be managed by the regulator. Perhaps this is being done so that we do not over-regulate ourselves and create this huge monster of a regulator over this industry with a fear that if we do not it will get out of control, but there will be a relationship. Now, it might be argued that in the past some people have thought that such a relationship does not work as well to the benefit of the wider public because if we look at perhaps the financial services industry, some people argue that it was the too-cozy relationship between the financial services industry and the regulators that helped to contribute to the re-

cession that we had. So, there may be some people who are suspicious of that. But it appears that what is being done here with this amending Bill is proper global practice, to have a balance between self-regulation and government regulation is what they are looking to find, to accomplish.

Technology standards are going to be high. Perhaps we are not going to see the old machines where you pull down the lever, which were a part of the gaming scene back in the day. No, it is going to be proper technological equipment that is the modern state of the art, that is part of the modern gaming industry that can be appropriately watched and regulated and inspected over time to make sure that . . . I do not know if “fairness” is a word that the gaming industry likes to bandy, but there is a level of fairness . . . and perhaps I am even using that word inappropriately, because maybe fairness is what the operator does not want. You know, the house is supposed to win. Some people think it is not too fair. But as someone who is not an experienced gamer, I will let the more experienced gamers talk about that more. But perhaps this is . . . technology will be of the highest standards.

There is supposed to be an operator compliance committee whereby the operator performs many tasks that are performed by the regulator. This is what I spoke of before, this self-regulation. One of the things I noted, Mr. Speaker, was that there was talk about the number of committees under the operator compliance committee, such as the Problem Gaming process, which I think is very important to have. Let us face it; we know as with any other activity there can develop compulsive behaviours which are counter-productive to society, to our social order. I think that these are the issues that many people in Bermuda are concerned about, that gaming will bring certain types of compulsive reactions and behaviour that are not going to be socially positive.

As we have heard sort of from across the world, Mr. Speaker, the component of the gaming industry that tries to be proactive in dealing with the social ills that sometimes come out of people who participate in the gaming industry, so that is going to be a part of the compliance side. In fact, I can recall, Mr. Speaker, that during the original debate I purposely asked that the body that oversees gaming have a social worker or psychologist on it who can bring the issues that are presented in gaming right to the table of those in Government, rather than being on a sub-committee. That would be the best bet, that there be a psychologist on the gaming body commission that could bring those issues right to the front and centre of how the whole industry is regulated.

I do believe that the point was taken. And perhaps what we are seeing on this compliance committee is a manifestation of that idea. I am not saying that I had the idea, but it is something that is standard practice, I believe, around the world. We had a report,

as Government, done by the Nova Scotia Commission. They have a very well advanced Problem Gaming component to their industry which is quite advanced and plays a proactive approach in dealing with gaming and the issues that come up from the social side and using risk-based methodologies to look at those issues.

Reliance on stated goals and standards enhancing dependence on user-defined internal controls and utilising an evidence-based best practice approach to develop a programme to provide protections for the vulnerable. That seems to be what the social gaming component is going to bring. And that is important. I do not . . . you know, we in Bermuda should not minimise how crucial that is going to be to how we develop a responsible gaming environment for ourselves. There has to be an open recognition, just like with the use of certain substances that people will abuse, and then lose control. And that loss of control can have an impact on families, communities, and everyone. And then it creates other problems which we often have to pay for on the other side.

So, it does appear that there is an effort in the majority of this Bill, Mr. Speaker, to try and make some changes. But it is difficult for me not to recognise that perhaps this process for the Government started wrong in the first place to some degree. As we recall there were two members of the Cabinet who went off to a far-flung jurisdiction to, as we were told, investigate gaming. And they went off to look at a model that was perceived to be a good model. And after a far-flung trip, Mr. Speaker, they came back with, what they told us, what it was going to look like. And that was the original Bill.

Well, what we have found out since then, since others outside of the political realm have found the opportunity to opine on what was done prior, that perhaps this was a misadventure to some degree. Perhaps there was some value in going off and checking out what was going on in that other jurisdiction. I believe it was Singapore. But it appears that what they brought back from that trip was not so much the best that was to offer for Bermuda. It may have worked in that jurisdiction, but it has been discovered that that model was not appropriate.

As I recall, Mr. Speaker, that was quite a costly journey. So, to some degree, these refinements that we are being presented with today are a product of tens of thousands of dollars of misadventure. And it has become costly, nearly \$50,000—but certainly somewhere between \$30,000 and \$50,000—may have been spent on that particular trip. And what we find now is that we are back at this House, Mr. Speaker, making multiple amendments to literally rewrite the original Bill, based on what might be argued now as being a misadventure, because the model that was brought back on that particular trip did not bring back something that could work for Bermuda.

And I, perhaps, can contend, but perhaps there will be arguments against what I am saying, Mr. Speaker, that that has perhaps slowed the process for us. Because what was brought back did not quite work for Bermuda. It may have delayed and slowed our own process of incorporating a proper gaming environment in Bermuda that could be appropriately developed. And that is unfortunate. That is very unfortunate, because it has been costly. Tens of thousands of dollars in cost that maybe could have been avoided.

An Hon. Member: Maybe hundreds.

Mr. Walter H. Roban: Someone is suggesting it might be hundreds. I only know the figures that have been presented to me, Mr. Speaker. Perhaps there is evidence of that, but I will stay away from that. But certainly, tens of thousands of dollars were spent on a ministerial misadventure.

Perhaps they were well-intended. I am not going to doubt that those Ministers that went off on that trip intended to do something which they thought was going to help Bermuda.

[Inaudible interjection]

Mr. Walter H. Roban: Yes. And I am told by an honourable colleague of mine, Mr. Speaker, that Singapore is a nice place. I have not had the opportunity to go there. Perhaps I will one day. And some people are going to the casinos there and they say that they are quite nice. That may be true. But, what stays in Singapore, perhaps needed to stay in Singapore, because what we brought back here is not working for Bermuda. And we are here after tens of thousands of dollars, after hours of drafting, after perhaps months of delay, years of delay, because the first one was drafted in 2014, and 70 amendments, back to the drawing board. And at the drawing board it might have been a year less delay.

And as I say, perhaps there will be arguments against that, Mr. Speaker. But it cannot be argued that this has delayed the process. This has held up the opportunity. This has frustrated the goal of some to bring gaming to Bermuda in a way that can help and aid our economy and our development. That, I think, cannot be refuted. Perhaps somebody will, but that is like politics, isn't it? Everybody disagrees with everybody sometimes.

But this is what we contend. And, Mr. Speaker, there are some provisions that we think, despite all the effort, and I do not . . . perhaps I cannot say that these amendments are not needed. Certainly not. But there may be a few things in here that are, perhaps, troublesome. Certainly Members on my side who are much more familiar with gaming and have wrapped their heads around this in a way that has been an effort over the past couple of years to, you know, cham-

panion what they feel is the best approach to this, are going to have something to say about this.

Mr. Speaker, if I can speak about a few of the things that I think perhaps might be problematic, there is a clause in this Bill that talks about awarding a provisional licence and the capacity to award the provisional licence. And the way that clause is worded, Mr. Speaker, it does, frankly, raise some eyebrows. Probably more than eyebrows, Mr. Speaker, because it appears that this clause . . . and I am not trying . . . because there will be plenty of time in Committee to get around this, Mr. Speaker. So I am not looking to delve too far into it. I am staying on the general substance.

The Speaker: Yes, stay general. Stay general.

Mr. Walter H. Roban: But I think I can make some description of some of the issues that this side has, Mr. Speaker.

The Speaker: Yes, go ahead.

Mr. Walter H. Roban: And I will take my time to do that.

The Speaker: All right.

Mr. Walter H. Roban: But, that provides some trouble for us on this side, the nature of how the provisional licence . . . certainly, the original Bill does provide a staged approach of designated site, provisional licence, and then operating licence, or a process of going through that. But it does appear that this particular clause in this Bill that we are bringing here today, which by and large is a clean-up Bill for the first thing. Let us accept that. It is a clean-up Bill for the first thing. But there are some provisions like this one that seem to find a way to give a provisional licence to a particular site, of which we have dealt with already in this House, in a manner which, hmm, might raise some concerns because it essentially appears to be going around the Commission, circumventing the Commission.

And if I can, Mr. Speaker, I can bring up . . . you know, the word out there is that this is to help move a certain project on; that perhaps a developer is not as comfortable with moving forward without getting this provision.

Here are some of the things we have heard, Mr. Speaker. And we on this side could not rightfully ignore what we have been told. So, the nature and the manner in which this provision has been put into this Bill, raises some serious concerns and eyebrows for us. And we do hope the Government can give the answers that might satisfy this side and the general public because, as I said, this journey into gaming has not been pristine. And I am not myself going to revisit some of that history. If others do, hey, that is what

they are going to do. But I am not going to revisit that. But it is on the minds of many, and certainly influences how they think around these issues.

The other thing, Mr. Speaker, is that we note that we had a provision for two places to be designated sites, which we dealt with earlier. But interestingly, there is one missing. I can tell you that we were not invited, but certainly we have been approached by certain persons who have an interest in what I would describe as the Morgan's Point site. Their concern is, *Well, why not me? How come I didn't get that provision? How come no one came to us to give us a provision? If this is to help somebody along, then don't we deserve the help too? We have been over here for years struggling trying to get this development. This is a Bermuda group trying to make something happen in tourism. How come we didn't get that help? And that group is a bunch of people from somewhere else!*

Those are the sorts of questions that are being put to us. But, you know, we are the Opposition. We cannot do anything about it. But I think it is fair that we raise that. And perhaps there is some equity there because both of these developments are two of the one (because one is actually the Hamilton Princess, which we dealt with) is a Pembroke site. The other one was a site where nothing has happened yet. And they are getting this provision while the other site, Morgan's Point, nothing has really happened yet, but they did not get the same opportunity. Those are the questions that are being asked. So I think the Government needs to let us know why they did not write that into this Bill for them too.

You know, transparency, openness, fairness, a level playing field. Is that not what we are supposed to be pursuing, Mr. Speaker? So there are some questions around this Bill that the Government is going to have to answer, Mr. Speaker. And it would help, for the sake of ensuring that as we go forward, that the path around gaming is less rocky than it has been in the past to get to be a smoother path, that we all can feel confident about.

And, Mr. Speaker, some of the questions I think I would like to just outline so that the Minister will have an opportunity to deal with them, and if you will just allow me to read my notes just briefly scan my notes on this, Mr. Speaker:

- Was the Gaming Commission consulted around some of these provisions, particularly the ones around which there are some issues with?
- Did the St. George's Resort go through the same process to get their provisional licence as other entities that applied for that status?
- Did the Gaming Commission evaluate the St. George's Resort suitably for receiving this provisional licence, and, if not, who did?
- Did the St. George's Resort have to pay the same fees for the provisional licence as was required by other entities?

- Did the Gaming Commission support the grandfathering of the St. George's Resort?
- How does the OBA and the Gaming Commission, Mr. Speaker, having said before what they said about provisional licences, how does that gel with what is being done now with what they said back in February of 2015?

I will not read the quote; I will just say these are the questions that the Minister can answer.

And I will not present any further questions because I believe that my colleagues will have further inquiries on this, Mr. Speaker. But we on this side are not really that interested in going over old roads. We are here now. There is a Commission in place. We were told back when it was set up that its path was to be sort of independent over the regulators of gaming in Bermuda as we developed it, particularly casino gaming. And it may be that their role will evolve into other parts. We see now that there are some changes being made around the Betting Act which seems to be . . . excuse me, efforts to deal with any potential activities which might bring about money laundering and illegal activities.

So, there are changes being made which actually span out into other areas of gaming. So it may be that we are seeing the Commission's role evolve. And that would be a good thing, because it would be good, I think, to move some of the oversight of what we do in Bermuda around the gaming industry, not just casino gaming, under a body that has the expertise and the resources to carry out those roles.

So, we are seeing some of the Betting Act being dealt with in that. But that is all a good thing. We are not . . . no one is objecting to that. And certainly, we have not been presented, as far as I know, Mr. Speaker, any objections from members of those other areas, like the betting shops and that, that they somehow have an issue with what is being done. So until such time as we hear anything, we assume that people are comfortable with those activities and what the Gaming Commission is seeking to do.

There is another provision, Mr. Speaker, which has some challenges I believe for some. And that is the provision which seemingly seeks to prohibit persons who are in the public service, or who serve in certain areas of responsibility, from being involved with, I guess in their own professional capacity with anything related to gaming. But I am being general because I do not want to offend the rule of going to the Bill. I am sure other Members will talk about this. But there is some concern, Mr. Speaker, about that as well.

Now, there is one argument that has been presented to us in this House that this is a part of the overall international regulatory best practice of certain prohibitions on persons coming out of government or out of certain public bodies and becoming private advisors, or being privately involved with gaming. If that

is, well then, let us . . . I do think the Government needs to explain more clearly what they are doing by that provision. Perhaps they have been advised by the Gaming Commission that this is important for us to move forward as a jurisdiction so that we can be appropriately recognised internationally as a properly regulated jurisdiction.

We have heard some rumours that our banks have been shy of getting involved with gaming. Well, perhaps this is just an effort to get it so that our banks feel more “comfortable,” and I put comfortable in quotes because I think that there are those of us who perhaps smile at the banks for trying to be so holier-than-thou, when in other areas they have not been so holier-than-thou. I am sure others know what I am talking about, right?

But the banks seem to be taking a holier-than-thou approach to gaming. But their activities have not been so holy overall to many in this country. But I think we give the Government . . . and I see the Finance Minister squinting his eyes at me like he thinks I am talking some foreign language. I hope he does not think I am talking a foreign language!

Hon. E. T. (Bob) Richards: No.

Mr. Walter H. Roban: Well, I am trying to be parliamentary, Mr. Speaker, as best I can! I am sure others will, perhaps, flesh it out a bit.

The Speaker: Just speak to the Speaker and you will be safe.

Mr. Walter H. Roban: I just ended my last sentence with “Mr. Speaker.” I did not talk about anybody else, Mr. Speaker. You are the only person I can see right now. Right?

And that has been, as an honourable colleague of mine who sits in constituency 3 has said, in the *Royal Gazette*. So, can I rely on that as a credible source for what has been suggested about the banks? Well, perhaps I can. Maybe that was another bunch of their misinformation. But I am sure we will hear an explanation of that. But I think that it is important, Mr. Speaker, that the Government gives appropriate thorough explanation for some of the things that we are concerned about, particularly that provision and the other provision that I spoke about. And I am doing my best not to refer to the legislation in this general debate, but I think I have described the issues appropriately. There may be other things that Members on this side . . . because I will say that there are Members on this side who have a lot more knowledge and experience around gaming than I do, who may have issues they wish to raise in the debate.

But, Mr. Speaker, I think I have outlined our position fairly vigorously here and I will now sit down and wait for further insight from the debate which succeeds. Thank you very much.

The Speaker: Thank you, Honourable Member.

The Chair will now recognise the Honourable Member from constituency 6, MP Furbert.

You have the floor.

Hon. Wayne L. Furbert: Thank you, Mr. Speaker. I really do not plan to be long, because the whole issue is about the cost itself.

Let me just say that I recognise the CEO, Mr. Schuetz, in the Chamber, and also the Mr. Alan Dunch, the Chairman. Two fine gentlemen that I had the opportunity to talk to. When Mr. Schuetz first came to Bermuda, he met with a few of us on this side and I found him very clear in the direction that he wanted to go. And, Mr. Speaker, one thing I will tell you is I was shocked when the first thing we asked him about was what his salary was. I was shocked at how little he was getting. And so, I would ask him to speak to the Chair, the Government, maybe he can work something out with the Bermuda Tourism Authority to see if he can get in line with them. But I was literally shocked by what he was making.

First of all, an organisation or someone that is starting up and hopefully will take us forward. But it is kind of hard. I see that he is there. I guess if he makes things happen he will be going back to the Board for further looks. But, again, I was shocked.

Mr. Speaker, the first Casino Act . . . as you know, I was not really in favour of casinos in Bermuda. But it is here. And since it is here I accept it. I do support and believe that one should work—one. Based on an economy of scale I am trying to figure out how three or four are going to work. But that is what is before us, and we will move in that direction. But I just do not see how at the end of the day four licences will take place, or three licences. I want to clear on that part, two, three or four. I was not clear based on what the Act was saying.

One good model down on Front Street with the hotel owning shares in the one model may have worked better. But as I know hotels are close to trying to keep their revenue on board particularly from the alcoholic basis to get additional revenue. But I think one beautiful casino down on Front Street with performing arts and everything else around it . . . I use the Sir John Swan model as an example of what I think would have worked better for Bermuda’s talent spread all throughout the Island. But that is where we are and that is where we are. And I wish all those who get licensed the best, recognising that I am sure they will have to do their . . . the one who gets in first will probably have the greatest advantage going forward.

We have here 70-plus amendments. That is a lot of amendments, Mr. Speaker. And that is what I am getting at. I would have thought to make it more . . . going back and forth I had to bring out the old Bill and I am back and forth reading two things trying to understand what is going on. We should have had the

old one repealed and a whole new one done up. It is not done up right now. I am just hoping in the future that the Government will put one Bill so that it does not become so cumbersome. So when a developer or a casino operator is looking at it . . . because I am sure their lawyers are going to look at it. They have got two documents in their hands trying to go back and forth like this. It can become very confusing. So I hope that eventually they will streamline the Act to make it much more user-friendly for individuals.

When we talk about moving from the Singapore model to this, I am assuming that the model that we have right now is more of a North American-style operation. And I am assuming that because Mr. Schuetz is mainly from North America. I had an opportunity to go to Singapore just like my honourable colleague and talk to the operators in Singapore. Oh boy, those casino people are getting some good money over there. Those commissioners make good money over there, Mr. Speaker. I was shocked to hear what they were getting. I think it was about a million dollars a year, commissioners. I mean Members of Parliament in Singapore make a million dollars. The Premier is getting \$3 million. And they told me the reason why is they wanted good people. So we may want to consider that when our—

[Inaudible interjections and laughter]

Hon. Wayne L. Furbert: Take that up in our future when looking at our salary increases, Mr. Speaker. We might want to consider that.

But I had the opportunity to sit down and talk to some of the commissioners. I was very impressed with the operation. As a matter of fact, the first tourism . . . and it was not called a Tourism Authority, the Tourism Act, not Authority, because I used the word Authority, came from Singapore. That first model came out of Singapore. I remember, it was literally cut and paste and sent it up to the Attorney General and told him, *Let's do this*. And they took it and made some changes in it. I know the Minister has made some changes. We call it the Bermuda Tourism Authority. But the original Act was pretty well copied from the Singapore model.

We also look at the . . . sorry, the Board. I am talking about the Board, the Bermuda Tourism Act or the Board. But the model . . . and I am not a lawyer, so I did not find anything wrong with it. I thought it was pretty good. But again, with Mr. Schuetz coming on looking from a North American style, I can see why there are some changes. It would be interesting if we had brought a person from Canada, Australia, whether they would have adapted to another type of model for some changes in the Act. So it is here, and we accept what we have.

Mr. Speaker, I honestly believe that the Government, despite what they say they want to do, has literally tied the commissioner's hand in some form or

fashion. Here this is supposed to be a body that was independently operating without any interference by Government. And they have now thrown themselves in by giving this provisional licence. And as the Honourable Doctor from constituency 22 said, it was granted in the public interest. It was granted in the public interest. There is no confirmation or definite confirmation that they were going to get a licence, which did not make sense to me.

I want to speak more about that. Why do we give a provisional licence when the commissioners can say, *No, you're not getting it?* It was granted in the public's interest. Granted, *in the public's interest* is very important. In fact, it is very powerful because Government normally grants in the public interest when they really want something done. So I hope that they will not be knocking on the door saying, *Listen, you've got to make this happen. You've got to give it to St. George's despite these limitations they may have, despite certain things may take place*. I hope they are not getting involved in that.

I remember when the former Minister from constituency 31, Shawn Crockwell, introduced the commissioners. At the time there were four of them. And the Minister said that the Government would not get involved in the granting of licences . . . would not interfere at all. Would not interfere! Parliament is sending a message, *We are going to give them a provisional licence and . . .* I am stopping here. But you know what we really want, next step. We know what we want.

The chairman said at the time that if he knew that the Government was getting involved in granting licences, he would not have accepted the position. That was in the *Royal Gazette* in February 2015, I think it was. So now we have a Government . . . and it is similar to what the Government said to the country. *We are going to have a referendum on casinos*. And they backed away from that. Then they said to the commissioners, *We're not getting involved in your decision going forward*. But we know that . . . *I am going to tell you what we are going to do. We are going to give a provisional licence to St. George's*.

So that means that the Commission now has only two left. Or do they really have three left? And I will be clear on that. Is the provisional licence to St. George's one and three more? I am not clear on that part. *So, yes, Commission, you have the right to grant three. But I am going to give one out*. So that means there are now four out there. That increases the possibility of licences, increases gambling competition in the community, more economic problems, I think, rolling forward.

So we are going to end up with little small rooms like this with a little one-arm bandit in the corner, maybe a few tables. I was down in Orlando not too long ago. I was involved with a company, and they had a casino club gaming night. They rented a room, and it was probably not much bigger than this room

and the next room added together. And they had a little slot machine in the corner and three guys giving, or four people right here. So I imagine that there is no one building on the scale that I see in Las Vegas. There is no one I see who is going to build on the scale I see in Macau. There is no one I see who is going to build on the scale because it does not make economic sense. Three hundred, four hundred thousand dollars, a staff of a thousand running around and some people dancing on the stage, is not . . . it does not make sense. Sixty-six thousand people, 265,000, 300,000 people come here a year, the ships are not coming here unless they want to . . . they are already gambling on the ships.

So I would have thought we would have left the decision to the commissioners who can look at the economic benefit for us all, and let them make the decision whether there should be a maximum of three designated sites, or four designated sites. Let them make the decision.

Now you are saying St. George's. Why do we have to have that stuck in this legislation? I do not believe that the Government is being truthful to us. They are not telling the whole truth of why are they putting this particular site [there]. Is it because . . . I heard that it has possibly to do with the request for proposal. But I remember reading sometime back where the . . . and I could be wrong, and the former Minister could correct me, but I was just trying to look for it right now. But they said, *Ah. We don't know anything about a casino. We're coming here anyway. We would come to Bermuda despite [not] having a casino.* Although the RFP that went out, I think included the casino operation. *But no, we don't need that. We will just operate on the basis of a regular hotel.* That is what I thought I read sometime back. Now I will do further research to make that happen.

But now the Government . . . I am not going to build down at St. George's unless you give me some signals that there is a provisional licence so that Clarion Bank or Bank of Butterfield, HSBC or whoever finances it, are saying at least they have a step in the door. Tell the people of Bermuda the truth. If this is granting in the public's interest. If this is the public's interest you are talking about, we will not move ahead until we are clear that we are getting a provisional licence, and then next year, whenever the commissioner looks at it, because there are a whole host of things that can go through based on what I can see here before they actually start giving a licence. They do not meet the requirement and the CEO and Chairman break the news, *Sorry, we don't think you meet the requirement.*

So what message do you really want? Do you really want the commissioner to say, *I want you to give them a licence?* Because we are not being truthful, Mr. Speaker. You know, at first there was no licence and now I am giving a provisional licence, so we are taking a little step at a time. Next one we will

probably come back next year because they heard that the Commission is saying that they are not getting one and bring something for another further amendment and say, *No, they have a licence.* Because we are not going to build until . . . I would have thought that they are not going to start building, laying some mortar, until they actually get a licence. How can you? They are not going to move ahead. They said that they will build the hotel first, or they may build the golf course first. But they are not going to put investment in because based on their RFP they said they would have a casino. So there are a lot of steps out there.

I know they are trying to send this little subtle message. *Don't worry, it's all taken care of; you're okay. We've got you covered. You know, there is an election coming up next year and we want to make sure that you are fine and sending a message to the people in St. George's that you are going to put a few Bobcats down there and start digging up the ground.* I just find it amazing, Mr. Speaker.

I do not think the Government . . . and hopefully the Minister who is bringing the Bill will speak to that and tell us the real truth. Let us not wait until somewhere down the road and, you know . . . is the commissioner in agreement with you? I think, as a matter of fact, the Minister said earlier during the debate on the St. George's Resort [Bill] that the commissioners supported it. Did they?

He is shaking his head.

Which way are you going, this way or that way?

[Laughter]

Hon. Wayne L. Furbert: You know, I am really . . . because that is the body the country is looking at. The Minister designated to make a choice for a licence. That is the body. Not the Ministers in Cabinet that meets every Tuesday. That is where the decision should be resting, with the commissioners. Not with Cabinet, and make it political because they want to get something out of St. George's and say, *I've got 200 men down there, women down there, and I've got 1,800 to go to make my 2,000.* It is not going to work, Mr. Speaker.

So again, I believe that the commissioner's hands [are] tied. Again, I ask what happens if they do not . . . that is key. What happens if the commissioners do not support that area getting a licence?

So, my honourable colleague from constituency 15 asked, *Why not Morgan's Point?* And I am asking that question too. Why not Morgan's Point? I think in their master development agreement, and I think we did it, the Progressive Labour Party did it, [it was put] that they would get a casino. So why couldn't they get a provisional licence? That is a very important point, Mr. Speaker. And the Minister of Government should answer that. Send a message to Mr. Duperreault and Mr. Hunt and Craig Christensen who

spent millions of dollars. They have been around since . . . they have been around for a long time. They started over there in South Shore in—

An Hon. Member: In 2008.

Hon. Wayne L. Furbert: And there are millions of dollars going out their pocket. Why not Morgan's Point? Again, they are tying the commissioner's hands. Why?

The Hamilton Princess has got a licence . . . a designated site, sorry. We have a designated site.

An Hon. Member: Yes.

Hon. Wayne L. Furbert: All right. They will probably get one. So we already know the three. I want to be clear whether it is . . . I cannot remember whether it is three licences or four licences. And I hope the Minister will explain again. Maybe I did not read it properly. But it said there are going to be three licences. But is the provisional licence something different?

Extra?

Extra. So there are four licences.

The Hon. Dr. E. Grant Gibbons: Four provisional licences.

Hon. Wayne L. Furbert: Maybe the Minister will speak on this.

And I want the country to hear this. Will the commissioners still have the right to decide how many licences they give, and who gets them? All right. So, send that message to St. George's that, *You don't have a licence yet*. And maybe their bankers are listening right now. They do not have a licence. And they may not get one, because the Commission has to decide. And maybe the Minister will put some pressure on somebody because they want to start betting next month.

The way I see it, we are now . . . what is this? This is December. We are going into December, hit January, they want some tractors down in St. George's by June, Mr. Speaker, so they can start saying that they have got this hotel and they will start building, the America's Cup . . . I can read their manifesto right now, *Development going forward*. They want to be down there taking pictures with Grant, the Honourable Member from [constituency] 22. And the Premier and the Minister are smiling because they have some tractors down there, probably Island Construction machines, and smiling, saying they have this hotel being built.

It just makes political sense. I understand that. *I have one year to go, 2012*. Trying to rush and get Bazarian down there in St. George's. We know. We are coming to the election. We have got to move—got to move.

An Hon. Member: They are coming with a shovel.

Hon. Wayne L. Furbert: Put a shovel in the ground, remember? Put a shovel in the ground. Just throw some sand up in the air.

[Laughter and crosstalk]

Hon. Wayne L. Furbert: So there is a concern.

[Inaudible interjections]

Hon. Wayne L. Furbert: Right. So before that, I am sure, based on the Act, first of all we have to find some banks that are going to accept it.

[Inaudible interjection]

Hon. Wayne L. Furbert: So we have got some time.

[Inaudible interjection]

Hon. Wayne L. Furbert: Once the banks decide what they are going to do, then the commissioner decides who gets a licence—

[Inaudible interjection]

The Speaker: Honourable Members, let me hear one speaker.

Hon. Wayne L. Furbert: I guarantee you, Mr. Speaker, the first licence . . . and I am not a prophet, but I guarantee you, the first licence will be here in St. George's. Who thinks it will be St. George's? First of all, who thinks it will not be in St. George's? That is my point. Nobody put their hand up. You know, who a licence is going to be given to. The pressure has already been put on by the Minister, by the Cabinet.

Hon. Zane J. S. De Silva: He would not be here otherwise.

Hon. Wayne L. Furbert: Yes.

But I am hoping that the Chairman, who I know has integrity, and the CEO shows his integrity, and his Board has integrity and will not bow quickly to pressure. I mean, either way they are not cutting ribbons for the new hotel to open up. So they might just as well wait until we get there and let us cut the ribbon and work from there.

How much time do I have left, Mr. Speaker?

An Hon. Member: No time.

[Inaudible interjections]

Hon. Wayne L. Furbert: All right. And I said I was not going to be long either.

The Hon. Dr. E. Grant Gibbons: Yes, I remember that.

[Laughter]

Hon. Wayne L. Furbert: There is something in the Act (and I will talk to the clauses later on) that talks about Cabinet Ministers and Members not getting involved after two years. I was not clear, Mr. Minister, whether—

[Inaudible interjection]

Hon. Wayne L. Furbert: Oh, sorry, Mr. Speaker.

I was not clear, because it does not say . . . it says a legislator who is involved in gaming. It does not say a legislator who is *not* involved in gaming. So I am a legislator who is not involved in gaming. Will I be able to work at the casino now and immediately after I leave? That is very interesting, because it is not clear to me. But it should go on record in Hansard, so I can read it next year. [So I] ask the question, [if] I am not involved in any gaming right now, but next year, if I retire in March, and in April I am the accountant for the new Monte Carlo, will that stop me from being involved in . . . does the Act right now stop me from being involved in that? Because it is not clear to me. I want it to be. So every MP, legislator in this House, can get involved with a casino once . . . because we are not involved with gaming. I want to be clear on that.

I understand the Cabinet Minister because you made a decision on this particular thing. Can [MP] Sousa be cutting grass and be involved in the grass cutting down at . . . because he knows it is a big place, and put a contract down in . . . it is very important. Can the Sousa Landscaping have a contract with the . . . he is passing it and he notices they have a big piece of . . . they have to cut grass. You know, will . . . (let me call Glen) . . . Glen has a right to sell some cars to those condos because we had passed legislation to allow them to have cars. Will they? We will talk about it more in the actual clauses.

It would be interesting to know, Mr. Speaker, how many real, solid operators . . . We have been in operation now for pretty well two years. There is a message going [around] in the community of the world that Bermuda is opening up casinos. It would be interesting to know how many real operators out there are really saying, *I'm interested*. Has my friend down there in Hard Rock, I visited him down there. in Las Vegas. Is he saying, *I want to get in*? Is Caesar's Palace, and all the rest of them, saying, *I want to get in*? I would be really interested to know what the real interest is out there. Or are we just saying we will pass this and just hope that somebody comes? Because if we have somebody, we are going to have somebody of substance. Cannot have any Mickey Mouse.

[Inaudible interjection]

Hon. Wayne L. Furbert: I do not know. I do not know how . . . I gambled once in my life, Mr. Speaker. I do not remember how I won, but I gambled once in my life.

The Hon. Dr. E. Grant Gibbons: You've been in a casino?

Hon. Wayne L. Furbert: I was sitting down there at a machine. I was sitting down there because we had just come in from a CPA [Commonwealth Parliamentary Association] course. And I pulled the machine, and I was looking around and all of a sudden the thing went off. I thought I had broken the machine, right? This was in Las Vegas.

And a guy ran up and talked about, *You won!*
I said, *Yeah?*

And he said to me, *Are you American?*
I said, *No, why?*

He said, *Because you pay income tax, a tax.*

I said, *No. Look at this, I'm a Bermudan. Look. I said, I'm British.* I made out I was British that day and I paid no money. All right? I could almost open up a new business, running around to everyone who won and say I won it.

My point is this. I am not a real big casino man. My other colleague who will speak later on, I am sure he understands that much better than I do. All I am saying is that the Commission, at the end of the day, I feel has been short-changed by the Government's move to open up and give a provisional licence to the operators.

I want to be clear on the disqualification of who in this House and who in the civil service are not able to get involved in gaming once they retire, or part time, or whatever it is. I really want to be sure on this because . . . if not, then it will come back and bite us.

Mr. Speaker, that is all I wanted to say this evening. I will take up more during the actual clauses. Thank you.

The Speaker: All right, thank you.

Any other Honourable Members care to speak?

The Chair will recognise the Honourable and Learned Member from constituency 31. The Honourable MP Crockwell, you have the floor.

Mr. Shawn G. Crockwell: Thank you, Mr. Speaker.

Mr. Speaker, I think it is important that I rise to my feet and speak on this, as I was the substantive Minister who sponsored the original 2014 Bill, Gaming Casino Act, and I am the Minister that appointed the existing Gaming Commission. The individuals whom I appointed, I appointed based on the integrity that I knew they had, Mr. Speaker, starting with the chair-

man (then the chairman), Mr. Alan Dunch, who is a mentor of mine and a friend of mine. And then he spearheaded the recruitment of the balance of that Commission. And I think we have an astute Commission, but we have an inexperienced Commission as it relates to gaming.

Now, in the past year I know that the Commission has done a great deal. In fact, while I was Minister I attended a few exploratory trips with them to learn because it is important that we understand that when we introduced gaming into this jurisdiction none of us here knew about the industry. Okay? And I think it is important that I speak because of some comments that were made by the first [Member] from the Opposition [who spoke] in relation to the 2014 Bill.

Mr. Speaker, the Government at the time did not just decide where to go, which model to look at and what type of legislation to draft. You hear time and time again, Mr. Speaker, complaints about the cost of consultants. That is why governments hire consultants. When they are venturing into an area that is unknown to them, where they do not have the internal expertise, no one in this jurisdiction had the expertise as it related to gaming and how we should go about the development of gaming in this jurisdiction.

Let me be clear, the Government at the time did not enlist brand new consultants. We hired the same consultants that the PLP had when they were the Government. Let us not forget there was a Green Paper that came to this House on Gaming, which was written by the Innovation Group. Okay? There was something like 900 pages of research that was done prior to the OBA becoming the Government. We rehired the Innovation Group to update their research to take into account the current economic circumstances. And they did so.

During that time the Government was seeking guidance on the best way to go and then, in addition, the Government hired Spectrum Gaming [Group] (which is regarded in many quarters as the foremost expert in this area) and was the consultant that spearheaded the implementation of gaming in Singapore.

So here you have the Government seeking guidance from experts. We have what we are told is the foremost expert in gaming and guess who they told us who we should go and visit? Singapore, Mr. Speaker. We did not just take some darts and throw them at a map and they hit Singapore! We took advice from the experts. And they said, *We suggest you go to Singapore.*

Now, it is important that you understand the climate at the time in Bermuda when we were talking about gaming. The PLP will remember, because during their time in office gaming, at best, was 50/50 when they did their polling—50/50. Fifty per cent of the population was against gaming. So it was a political problem. And when the former Premier and Tourism Minister brought his Green Paper, guess what.

His own side did not support it. Okay? So let us get the climate correct here.

If we are going to talk about history, let us talk about the right history, okay? So there were problems in relation to embracing the ideology of gaming in this jurisdiction. Okay? And why? Because people were concerned about social issues. People were concerned about jurisdictional issues, our reputational issues in this jurisdiction.

So when we became Government that was the mindset that we inherited. So the focus at the time was protectionism. What type of model can we implement that is going to protect the vulnerable, protect the jurisdiction, and still be able to create the objective we are trying to create? And the advice came back, Singapore. Okay? So we took that advice.

And, as the Honourable Member who just took his seat, former Tourism Minister, will tell you, Mr. Speaker, he went to Singapore. I did not hear the first [Member] refer to that and the cost of that trip. And he also went to Macau to check it out, because back then we were looking at possibly introducing gaming into this jurisdiction, Mr. Speaker. So, we went through a significant process. I went from one end of this Island to the next doing roadshows about what we are going to do, how we are going to implement it, and the protection we were going to put in place. And when we finished that process, Mr. Speaker, before and after, guess what? The polling showed 70 per cent of the population supported gaming with an emphasis on protection. And that was what we were going with at the time.

I will tell you now, the experts actually agreed with the Honourable Member from constituency 6, who just took his seat. They felt that one large casino was probably the best model for Bermuda, because of our size, et cetera. But the Government also enlisted further expertise to ascertain how it would work if we had multiple casinos as amenities for resorts, because the number one issue that the Government had at the time was how we could attract foreign investment in the country. That is why casino gaming—so we can have hotels built in this country. We have not had a hotel built in this country from scratch, Mr. Speaker, in decades. In decades, Mr. Speaker. And we knew that we had to figure out ways to augment the revenue that these casinos can get, and casino gaming was one of them.

So let us not forget that that is why we did it. I understand people have a difference of opinion in terms of the model, but the Government said, *We want to spur development.*

Now, I am going to say something in a minute, Mr. Speaker, because I find it interesting that Honourable Members want to get up here and be concerned about a provisional licence, which I support. In fact, I have to talk about that as well (I am going to run out of time, I can see that). But had the environment not been so toxic at the time in this House, had the con-

spiracy theories not been going all around the place in this House, had all the allegations and false accusations not been rampant in this House, the Government may have been in a position to do what it needed to do to ensure that development got going. But because there was such a toxic environment at the time, we had to make sure that there was significant distance from the Government and the allocation of licences. It was the right way to go, Mr. Speaker. It was the right way to go.

But . . . and I want to be clear in terms of my participation. I want to be abundantly clear: At no time, Mr. Speaker, as I heard a news report maybe about a week ago, where they said they were told that former Minister Crockwell promised Desarrollos a gaming licence . . . not true! At no time have I ever promised Desarrollos a gaming licence. In fact, every single time it came up . . . because make no mistake about it. Every developer wants a casino licence. Okay? Make no mistake about it. It is coveted. They all want it for good reason. And imagine the first casino that opens in this country will do well. So they all want it. But whenever it came up, I made it abundantly clear that the Government's position is that the Government cannot guarantee, because the Government does not issue casino licences.

Now, what I did do before I left the Cabinet was guarantee that St. George's would be designated as a site if they met all the criteria, because at the end of the day it is the decision of the Minister. And I already made it public that St. George's qualifies, in my view, as a future designated site. And as far as I was aware, Mr. Speaker, that was sufficient satisfaction for the developers. But, being a part of this process, Mr. Speaker, things change. And, you know, we are asking these developers to come here and invest \$200 million into this jurisdiction. Most of it is their own money and whatever happened . . . and, as I said earlier, Mr. Speaker, in another debate, sometimes there are third parties that may need more comfort. So I certainly support the Government doing what it has to do.

And I was glad to see that this particular clause made it into this Act. And I know that it made it into the Act with the approval and approbation from the Commission, because otherwise it would not be there. So, in relation to that amendment, we need to send the international community a message from this Parliament that we support whatever needs to be done to ensure that they are able to get their development going. But I will concur that I do not know what the consequences, legal or otherwise, may be in relation to other developers, Mr. Speaker. Because there may be some.

On the face of it, it is very clear; it is very simple. *I'm in the same position as he is; why is he getting it and not me?* Right? So I can understand that there may be a legal issue. But as far as this provi-

sional licence, I have no problem with it, Mr. Speaker. But I do have a problem with section 187D.

Now, let me also declare that all of these amendments, besides a few—and the few that come to my mind, one is the provisional licence amendment, and two, is [section] 187—came past my desk and I spent a significant amount of time with the Commission, the executive director, the general counsel, their outside counsel, the chairman, going through the plethora of amendments that were proposed. And I had no problem with considering amendments deemed to be in the best interest of the jurisdiction.

Again, Mr. Speaker, I think the Honourable Member from constituency 6 raised an important point. We are here without the benefit of casino gaming acumen, and so if someone from Spectrum says, *Singapore, Singapore, Singapore*, we are going to do Singapore. And if someone else, coming from another jurisdiction, says, *Hold up. This is too onerous, you need to do this . . . we cannot come back. We have no real response, because we do not know. So we say, Okay, you're the expert.* [claps hands] *We do this.* That is the disadvantage of not knowing yourself. It is a disadvantage. Okay?

So we have to take that guidance and we move in this direction. But I can tell you that [section] 187D was not on the list of recommended amendments that came across my desk. So I do take issue with the justification for this amendment. And the justification I heard, I have heard from the chairman. I do not question the veracity of the justification; I question the timing, Mr. Speaker. Because the justification was that this is the gold standard, that this is what makes jurisdictions reputable. And that may be the case. I will note that the Minister who is dealing with this Bill today drew reference to other jurisdictions, but not one of them was an analogous jurisdiction. Not one.

I was waiting to hear "Aruba." I was waiting to hear, "Puerto Rico." I was waiting to hear, "The Bahamas." I was waiting to hear, "Jamaica has a similar clause in their legislation." We heard "California" and other jurisdictions. Now, if it is in those analogous jurisdictions, I am very interested to know, because that would change my view on this.

Mr. Speaker, the chairman said that this is important, it is relevant, it will put us in good company, and it would certainly put the gold standard on the jurisdiction. If that is the case, then great! But if that is . . . and the point is, it may be the case; but it was not at the forefront, Mr. Speaker, when these amendments were being considered, because it would have come across my desk. It became an issue after I left the Cabinet and went back into private practice and represented someone in the gaming industry. That is when it became flagged.

Now, my concern is why is it not in an analogous jurisdiction? Is it because of the size of our jurisdiction? What frustrates me about these conflict of

interest issues is that I have seen conflicts of interest in this Government, in other Governments doing business with relatives or people who are close to you, because we live in a small jurisdiction. It is almost impossible to avoid conflicts of interest, Mr. Speaker. So why are we going to be very strict in this sense, which will have a direct impact, at least on my career, or my current business, and my business partner, the former Attorney General, because it says at [section] 187D(c) “provide any goods or services to an applicant for or holder of any licence granted under the Act . . .” So I personally do not see any issue.

Certainly, if it were Desarrollos my integrity, Mr. Speaker, would have led me to say, *Sorry. I can't represent you*, because of the close relationship I developed with them, and because of what I felt would have been the optics of being the Minister negotiating with them directly in relation to this issue. But I cannot see why I could not represent Elbow Beach, Coco Reef, or other individuals who may be interested in either a designated site or a licence at some point, because I know the legislation.

It would be no different than the former Immigration Minister, who wrote new work permit policies and legislation, one day availing himself of that expertise by providing advice in that area. Why can the former Minister, who was responsible for bring the legislation to this Honourable House, getting it passed, responsible for the creation of the designated site process, intimately involved, not be able to advise, in appropriate circumstances, individuals in a jurisdiction this size?

So that caused me some concern. Certainly, I approved all of the other amendments prior to leaving Cabinet. And I am glad to see them here today. But I am concerned that we are here so much longer after—

The Speaker: You have 13 minutes.

Mr. Shawn G. Crockwell: Thank you, sir.

I am concerned that we are here now when I expected that we should have been here much sooner on this issue. And I am sure, depending on who you talk to, that we will find out that there are many reasons for this delay. And we have heard that there are going to be numerous regulations coming soon that this House is going to have to wrap its mind around and approve.

And my concern is that we are going to miss the America's Cup opportunity, I think that is a *fait accompli* now, Mr. Speaker. You will know that I recently took to my feet and I lamented the fact that we did not take advantage of an opportunity to look at a temporary licence, or a provisional licence for the America's Cup, where we are going to have thousands of people converging on this Island, wealthy people. We will have an opportunity to test it and see how successful it really can be. And we would have an opportunity to

get the training off the ground, get Bermudians who need work engaged in this new career and profession, and we can get that buzz going.

Do you know, Mr. Speaker, that the whole energy and enthusiasm around gaming is gone? It is gone. People were excited about it when we first passed it. And people were all interested in how they could get involved and trained. And we are taking so long to get this thing sorted out that people now do not even think it is going to happen. And it does not help that we are seeing articles in the *Royal Gazette* saying that it is not going to happen anyway because we have no banks that are going to be cooperative. It does not help.

So, I just do not understand why it is that we cannot . . . and I know that there are issues all around the place. But this is one of those types of things that we need to figure out and get it done. For a small jurisdiction . . . you are trying to tell me we cannot figure out a model and a regime that we can put in place in short order to get this thing up and running so we can get Bermudians who are unemployed right now, not just employed, but give them a new career, and get an amenity that can support our tourism industry, get hotel developments built—at least get them started—creating more jobs? What is the problem?

This is something that can help this country and we do not seem to be able to get out of the way! This is it! Tourism, hotel development, new jobs in casinos, and it has taken us almost two years, and now we are amending the original Act, when, in my view, if we can have some real leadership we can get something done.

Get it implemented.

Figure it out.

Get people in a room, put some timelines on it and say, *I want this done by this time*, and get it done, Mr. Speaker, because we have been dealing with this too long. And here we are back at the starting gate.

We had one Member talking about we should just repeal the original Act, when, in my view (and I am not an expert on this, and I am not going to try to be one), I think we could have tailored what we passed and made it fit our purpose somehow.

Let's get it done, because I am fearful, Mr. Speaker, that we will be back here . . . I may not even be here, Mr. Speaker, when we are back here tinkering around with amendments, regulations, this and that, and nothing is done.

The people in this country want action. They are tired of debates and they are tired of the blame. I do not know where the problem lies, but it is taking too long and we need to get it done.

Earlier today, Mr. Speaker, we passed the Bribery Act. I would have thought that would have been sufficient to cover the concerns that are raised in [section] 187D. This seems to be more targeted for some reason. Mr. Speaker, I do not believe that . . . I mean, I am in a quandary because as a former Tour-

ism Minister, and as someone who put a lot of time into the Desarrollos development—a lot of time—how can I go against the Bill that is going to help push that project along because there is an amendment that I find offensive? So it is a quandary for me, because I cannot send a message out there, particularly to those developers who I developed a personal relationship with and I have a mutual respect for . . . I cannot now say, *Well, I am going to undermine a Bill because I am not happy with one of the clauses.*

That is why I queried why the provisional licence is contained in this Bill. In my mind, you would have granted the right to the Commission to issue provisional licence in this Bill and then you would have come along and then issued that provisional licence in the St. George's Resort Act. That is the process that makes sense to me. But we are where we are. The Government has the numbers. I would hope that because of the importance of a provisional licence issue and because of the importance of this piece of legislation and because of the importance of us moving this industry along that somehow or the other . . . and I have been told that if we can get this done today some things are going to happen. Well, I will be watching, Mr. Speaker. I will be watching to see what is going to happen after this Act is passed today. And I hope that we see some leadership.

I hope we see some of that *urgency of now*, because the people in this country who are relying on us getting this, not only right, but getting it going are getting tired. They are getting tired.

So, Mr. Speaker, I think that we need to as the Premier likes to say, we need to move forward. But I am asking those individuals in the requisite positions to appreciate that we are now behind the eight ball. We are behind schedule and so we need to now get things done and get them done in an expeditious way, because this issue is too important and is too vital, not only to the future of tourism in this country, hotel development in this country, but also to create and generate hope that is dissipating, Mr. Speaker, in our community because people are saying, *Are you really serious about doing something for me?*

I have always believed that getting this industry up and running is important. Because, you know what? If I wanted to be a blackjack dealer and right now, if an unemployed individual on financial assistance wants to be a blackjack dealer and we both went and signed up to be trained, we would be on the same level. Forget my law degrees and everything else. I do not know how to do blackjack dealing and neither does he. And that is the beauty of this industry. We are all on the same level. Everybody would have an opportunity if they are interested in getting training and entering into a whole new career, no matter who they are. Certainly—

[Inaudible interjection]

Mr. Shawn G. Crockwell: Well, my colleague said at least for the next two years, I cannot, Mr. Speaker.

But that is the beauty of it. And people are out there waiting for it because they see this as their opportunity. Let us respect that and let us show them that we are serious about helping them, Mr. Speaker, help themselves.

Thank you.

The Speaker: All right. Thank you. Thank you, Honourable Member.

The Chair will now recognise the Honourable Member from constituency 29, MP Zane De Silva.

You have the floor.

Hon. Zane J. S. De Silva: Thank you, Mr. Speaker.

Mr. Speaker, I am happy to weigh in tonight and I will certainly have a few comments with regard to the [Member] who just took his seat, some in support and some not in support, Mr. Speaker.

[Inaudible interjection]

Hon. Zane J. S. De Silva: Of course you would be.

Mr. Speaker, he said a few things that I hope resonate deeply with not only the OBA Government but with the Commission themselves. He said a few things that I really like to use in my everyday business life and it is simple things like put timelines on it, Mr. Speaker. Put some timelines, set some goals.

He mentioned the *urgency of now*. You remember, Mr. Speaker, for the last couple of years every time we talked about gaming or anything that is related and to do with jobs, I have talked about urgency of now, Mr. Speaker. Urgency of now. Why? Because our country needs it. We have 4,000 people out of work, Mr. Speaker. The Honourable Member mentioned financial assistance just now. I would like to go a step further and say that we have missed an opportunity. The OBA Government have missed an opportunity because if I remember correctly those that receive financial assistance certainly some of the criteria for receiving financial assistance is individuals have to go out and do some community work or some type of work, Mr. Speaker.

We have lost an opportunity and he talked about one of those. Maybe some of those folks on financial assistance would like to be a blackjack dealer. Well, why have they not been in training? And you might say, the Opposition . . . the Government might say (soon to be Opposition) might say that, *Well, you know, here we are. You guys have all these bright ideas, but it takes money.* Well, I am not sure how many applications were made, Mr. Speaker, when the RFPs were put out, but there was talk that there were 11 applications—11, at \$50,000 a pop, if you remember.

Now, of course, I have since heard that two were actually submitted but they had inquiries from

11. But still, they did receive some money, Mr. Speaker. So you know what? But when you are talking about putting our people that are on financial assistance to work you . . . let us test the waters. Did we lose an opportunity? Maybe we did.

Now, Mr. Speaker, this are a lot of amendments. You might as well call it a new bit of legislation. Do I support it? Yes, I do. Do I have issues that I do not support? I am surely there, too, Mr. Speaker. And I will get into that because, let me state for those that may not know, Mr. Speaker, I was one of those that during the original debate back in 2014 that did not like the idea of having only three casinos. I said open it up. Turks and Caicos have several, Mr. Speaker. You go to Atlantic City, you go to Vegas, they are lined up right next to each other, almost hundreds of them at stages, Mr. Speaker. So my take was why stop an entrepreneur from maybe opening up a casino. I am stuck on that one, Mr. Speaker, somewhat, in that I believe that we should open the doors for competition.

If you have a casino, Mr. Speaker, and we have 10 other people in this room with casinos it is up to you to do your marketing, to get the support for folks to come into your casino. I am familiar with them, Mr. Speaker, you know that. I have certainly made it very clear where I stand on gaming in Bermuda. And I spend quite a bit of time in casinos, Mr. Speaker. I love them to death. I am probably one of the very few that spend a lot of time . . . but I am very controlled, Mr. Speaker. So, you know, my thing is . . . and you will know that many casinos, as the chairman of the Commission and the CEO have said, they got a good deal when they went to Caesars. They got a discounted rate because casinos do that.

In fact, many of the casinos that I go to on a regular basis, Mr. Speaker, I do not pay anything at all. I do not pay for my room, and most times I do not pay for my food, either. But, that is . . . and we know why, Mr. Speaker. So, Mr. Speaker, this should have been there long ago.

We know from the Ministerial Statements that our former Minister of Tourism Crockwell made in this House several times, Mr. Speaker. You will know that they date back almost . . . I think it is two years now. Two years. What have we been doing for two years? In one of those Ministerial Statements former Minister Crockwell said that the CEO is going to hit the ground running. One day, before we even got to gaming debate, he gave us a little precursor. He said, *I am going to hire somebody and it is going to be somebody that is darn good*, he said. Right? He said, *No, no, no* (this was former Minister Crockwell) *I am going to hire somebody that is good! That is real good!* Those are his words—before any Commission was picked, before anyone was picked.

So, Mr. Speaker, we understand, yes. And the chairman, Mr. Dunch, was the one who said he is going to hit the ground running. But what the heck is tak-

ing us so long, Mr. Speaker? It is two years! The CEO certainly does not have a problem jumping on planes and spending taxpayers' dollars. But we want to see some action here. We have people out of work, and we will get into developers in a moment, Mr. Speaker. But one thing . . . I am not sure which one said it, and I have it in my papers here, Mr. Speaker, I have a lot of papers. I like to collect papers. I am not as sharp as my tech man, MP Lawrence, here. I deal with paper, Mr. Speaker, but I believe it was Mr. Dunch, or the CEO, said that we will be lucky, and just recently, we will be very lucky to get a casino next year. So you know what? If we do not get a casino next year, Mr. Speaker, it will be three years counting. Three years counting whilst we have 4,000 people out of work.

Now, Mr. Speaker, the Honourable former Minister Crockwell said, almost pointing fingers at the PLP, and I will use his words, because of the "toxic environment" in this House is why we did not have development, why we have not had a hotel to date. I argue with him. I argue with him, Mr. Speaker, and I disagree with him, because the toxic environment that he talked about in this place was only because of circumstances that had happened.

Now you remember where it started. We had a jet that left Bermuda, Mr. Speaker—

An Hon. Member: Yes, we did.

Hon. Zane J. S. De Silva: Okay? We had one that left Bermuda going to talk to a developer for that same site!

So, Mr. Speaker, let us talk about toxic environment, okay? Let us talk about their trip to Singapore that they were advised to take that cost the taxpayers' almost \$50,000.

So, Mr. Speaker, let us talk about toxicity. Do not talk to me about this environment was toxic when you talk about the PLP. It was toxic because it had a bad start. And you know the old saying: If it starts wrong, it finishes wrong most of the time.

[Inaudible interjections]

Hon. Zane J. S. De Silva: So, Mr. Speaker—

[Inaudible interjections]

Hon. Zane J. S. De Silva: The Honourable Member says why did they get rid of their Leader? Same reason that your Premier got rid of you.

[Inaudible interjection]

Hon. Zane J. S. De Silva: Oh—

The Speaker: Honourable Member Crockwell, that is enough.

Hon. Zane J. S. De Silva: So, Mr. Speaker, I say that is all hogwash. I say, you know, this thing about *no developers came to Bermuda because of the toxic atmosphere in this House* . . . I tell you what, Mr. Speaker, I tell you what. I know that same Hotelco Group in this Island, in Bermuda, at a press conference were asked about the casino licence and they said, and I will quote, *that a casino licence is not a game changer for them*. I remember those words distinctly, Mr. Speaker, because I am reading them. Not a game changer. In other words, they will press on.

So this talk about the toxic atmosphere in this House, it is hogwash. Hogwash, Mr. Speaker! The problem with the development down in St. George's . . . I will tell you what the problem was. They did not have a casino licence. That is why it is here today. That is why it is here today.

[Inaudible interjection]

Hon. Zane J. S. De Silva: Yes, let us be transparent. Let us tell truth to mama and daddy, come on.

[Inaudible interjection]

Hon. Zane J. S. De Silva: That is why . . . that is why we are here today, Mr. Speaker.

Mr. Speaker, the Honourable former Tourism Minister talked about polls 50/50 during our time in Government when we wanted to bring gaming, then went on to say that the last poll that they had showed 70 per cent support for gaming from the people of Bermuda. Well, let us just not forget, Mr. Speaker, that back then in 2007 and 2006 Bermuda was in some very healthy financial times. Everyone was working. And, yes, I can say I will take the Honourable Member's word for it about the 50/50 number, about 50 per cent . . . and I will tell you what, and I think the last eight years there has been a lot of people hurting, Mr. Speaker. And it is a different environment. I think that is why Bermudians support it more today than they did seven, eight years ago. It is a different environment.

You have middle-class Bermudians in this country, Mr. Speaker, that are fighting to save their houses. So anything that we can do to improve their lifestyle, Mr. Speaker, anything that they feel can improve Bermuda's chances of success they will support. And that is why, I think, that we have an increased support for gaming, Mr. Speaker.

Mr. Speaker, I have to reemphasise one more time about our people that are unemployed that should have been trained during this period. We cannot emphasise that enough. At least give them the tools so that [when] the opportunity presents itself . . . I mean, how long is it going to take for someone to be trained to become qualified as a casino host in terms of a dealer, in terms of someone that works around the gaming machines and all the different games of

chance someone can participate in? Mr. Speaker, if you ever played craps, that is not an easy game to understand. Okay? Blackjack, you have to count cards quickly, Mr. Speaker. You cannot just train somebody in two weeks. It is going to take time. So we must, we must get our people trained. And if we are going to have Bermudians that are going to be our blackjack dealers and our croupiers and all the different games, Mr. Speaker, poker organisers and all of that, Mr. Speaker, it is going to take time.

Now, Mr. Speaker, it would be remiss if we did not talk about some of the publicity surrounding gaming in the last several months. In particular, Mr. Speaker, I draw your attention to an interview that the CEO gave to *Bernews* on 30 May this year, talking about Singapore and the model and it took seven years and, of course, the \$30 million, indicating to the man on the street that, you know, maybe it is going to take seven years and \$30 million. I do not know, Mr. Speaker. I could not understand why that statement was made. Maybe one of his colleagues, the Minister, can tell us why he made that statement, Mr. Speaker.

He also went on to say that if we followed the Singapore model it will cost us \$30 million a year. Well, I remember, Mr. Speaker, when the two Ministers came back from Singapore they sang the praises of that Singapore model . . . sang the praises. But all of a sudden now, the Singapore model is no good and we are going to start over—\$50,000 later.

The other question, Mr. Speaker, I would like to ask, [and] hopefully we can get [answered] tonight whilst we have the chairman and the CEO in the House is, Do they have the funding to train Bermudians?

Why do I ask that question, Mr. Speaker? Because the CEO told *Bernews* in that podcast, Mr. Speaker, on 30th May this year, that if they do not get funding, training of Bermudians is nothing but a pipedream—and I quote, “nothing but a pipedream.”

Now, Mr. Speaker, when are we going to train our Bermudians? Or are we ever going to train Bermudians? So if we do not get the funding, all the Bermudians that thought they may get a job in the gaming business, they are not getting any piece of that pie, Mr. Speaker. None.

The CEO, Mr. Speaker, also said in that podcast that he has set up a casino . . . I stand to be corrected, but I am fairly certain that he said he has set up a casino in three months before. Now, maybe he has a reason for that. But if he set up a casino in three months before, why are we still here having this discussion tonight, Mr. Speaker?

Now, Mr. Speaker, there are a few other things I would like to discuss before the night is done. How is my time going, Mr. Speaker?

The Speaker: You have 15 minutes.

Hon. Zane J. S. De Silva: Good.

Mr. Speaker, with your permission, I would like to quote . . . you might remember, Mr. Speaker, there were—

The Speaker: Where are you quoting from?

Hon. Zane J. S. De Silva: I am going to tell you in a second, Mr. Speaker.

This was from . . . we had a few statements that were made by Mr. Dunch earlier this year, Mr. Speaker, and there were press releases. I mean, I could table them. We had two press releases, and we also have a print out from the ¹*Royal Gazette*, Mr. Speaker, which I would like, with your indulgence, to quote. This is from Mr. Dunch, “When the Minister first approached me to ask me whether I would take on this position, I think the first question I asked him was if the Government has made any commitments to anybody in relation to granting a licence.

“I asked that question because had the answer been yes, I suspect I would have declined the invitation.”

Now listen to that very carefully, Mr. Speaker. “I have been assured that no commitments have been given and that we as a commission have been given a clean slate, so we can be looking at all applicants subjectively, without political influence and we will make decisions objectively without political influence, and that I can assure you.” Words of Mr. Dunch.

Now, Mr. Speaker, I would have thought that if Mr. Dunch was sincere we would have had a resignation by now.

[Inaudible interjection]

Hon. Zane J. S. De Silva: I mean, political interference. I would not take the job. I would not take it. These are his words not mine, Mr. Speaker. So my question is, why is Mr. Dunch still involved? Why is Mr. Dunch still involved?

Now, Mr. Speaker, on 13th July a press release from Mr. Dunch and the chairman of the Gaming Commission, he said that he took a trip September 2015 and during this trip he and the CEO met with four other large gaming operators that [comprised] the biggest and best brands operating in the global casino resort space. All of these appointments were made through Mr. Schuetz’s contacts in the gaming business.

Now, Mr. Speaker, do we have a situation of the poacher minding the henhouse? Mr. Speaker, we have the CEO who has made appointments and met with (his words) *four other large operators that comprise the biggest and best brands operating the global casino resort space*.

Mr. Speaker, they are meeting with these folks, and you talk about the atmosphere. So if you

are making a public statement that you are meeting with the top people in the world in the casino gaming industry, and then you are expected to regulate these same people that you are wining and dining, Mr. Speaker, if they choose to come to Bermuda and open up a casino . . . now, something is not right.

Does anybody in the OBA Government question that situation? Do we have a CEO who is wining and dining some of the big players in the casino business world (their words) going to invite them to Bermuda and invest . . . *and, look, by the way, I am going to regulate you when you get here as we take another sip of wine?*

And, Mr. Speaker, Mr. Dunch went on to say, because when I first brought some of these things to light, Mr. Speaker, Mr. Dunch went on to say, ²“ . . . Mr. De Silva’s statements, it will quickly come to understand those statements for what we believe they were: namely, political theatre.”

I assure you, Mr. Dunch, that I do not sit up here for any political theatre.

The Speaker: Honourable Member, Honourable Member—

Hon. Michael H. Dunkley: Point of order, Mr. Speaker.

The Speaker: Honourable Member, you speak to the Chair. Please.

Hon. Zane J. S. De Silva: Apologies, Mr. Speaker, and apologies to Mr. Dunch, too.

The Speaker: All right, so, please.

Hon. Zane J. S. De Silva: He is in the House tonight and I welcome him here.—

The Speaker: Absolutely. But—

Hon. Zane J. S. De Silva: Hopefully he is enjoying the debate. Got you, Mr. Speaker.

The Speaker: It is all right for Mr. Dunch to be sitting there. He is not participating. He is just watching what is going on—

Hon. Zane J. S. De Silva: Yes, yes.

The Speaker: So therefore, it is respectful of you not to carry on that way.

Hon. Zane J. S. De Silva: Sure, Mr. Speaker, and my apologies, Mr. Speaker. No problem with that.

So, Mr. Speaker, of course, he was talking about at the time when I made comments with regard

¹ [Royal Gazette](#), 12 February 2016

² [Royal Gazette](#), 14 July 2016

to his relationship (I am talking about the CEO's relationship with his former wife), and, Mr. Speaker, I said on the floor of the House that night that I thought that that was rather a little funny to me, that you have your former wife who was brought to Bermuda . . . and the former Tourism Minister is here, so maybe we can get clarity for the first time. But I understood that when the former wife of the CEO came to Bermuda that he did not even know that. I will sit down if someone wants to point-of-order me.

So, I guess that statement was correct. It was not political theatre, Mr. Speaker. It was information that I had received.

So you see, Mr. Speaker, I had an issue with that. I had an issue with the CEO and his former wife who represented Caesars coming to Bermuda. The same people that we are trying to say we want investing in Bermuda [and] build a casino, *but, by the way, I am going to regulate you.* I had an issue with that, Mr. Speaker. And I still have an issue with it.

Mr. Speaker, Mr. Dunch also went on to say in that same press release, ³“What Caesar's did was pay their way to visit this Island with the thought of potentially investing,” listen, “hundreds of millions of dollars and employing hundreds of Bermudians.”

Now, this is the kicker, Mr. Speaker, he went on to say, “We are now concerned that our politicians may have convinced them that they are not welcome.”

So, Mr. Speaker, first of all, I would like that statement to be justified by the . . . Well, I am not sure who the current Minister is. Do we have the Junior Minister who is going to answer this? Or is Dr. Gibbons, the Member from [constituency] 22, going to answer this question? The Honourable Member from [constituency] 22?

[Inaudible interjection]

Hon. Zane J. S. De Silva: So, maybe he can justify that statement because, Mr. Speaker, Caesars thinking that they are going to generate millions of dollars and employ hundreds of Bermudians are now concerned that our politicians may have convinced them that they are not welcome.

Mr. Speaker, I did not cause that situation. I mean, are the regulators . . . is the Commission's job to get investors for this country? Or is their job to sort out the gaming legislation? What is it?

What is their remit? Do we not have anyone capable in the OBA Government to go out and get investors to invest in Bermuda with regard to hotels and casinos? Now all of a sudden we have a Commission, a chairman and a CEO that we are paying for, flying them around the world to entice investors to come to Bermuda, to encourage developers to come to Bermuda. I do not ever recall in any of the legisla-

tion that we debated in the last two years, Mr. Speaker, that that was their remit. No, I do not.

Maybe we will get that answer tonight. Maybe we will get it in Committee. I do not know, Mr. Speaker. But I find that highly, highly abnormal that a commission, whose job it is to form the legislation and the regulations for us to host casinos in this country, to also be the ones that are going to wine and dine potential developers . . . and we just passed a Bribery Act earlier today. I am not saying that . . . I am just saying, Mr. Speaker.

Hon. Michael H. Dunkley: Point of order, Mr. Speaker.

The Speaker: What is your point of order?

POINT OF ORDER

[Imputing improper motives]

Hon. Michael H. Dunkley: That is inappropriate for this House to [impute] motives of people. That is unacceptable for the Honourable Member to do that, especially when the gentleman he is talking about cannot even defend himself, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

Hon. Michael H. Dunkley: He can do better . . . well, perhaps he can.

The Speaker: Okay. Thank you, Honourable Member. Carry on.

Hon. Zane J. S. De Silva: Now, Mr. Speaker, you will know that I did not say . . . I did not say anything. If I struck a nerve with the Premier, maybe he might want to have some further explanations. But I did not say that, you know, somebody in the Commission or somebody on the Commission was getting bribed by anybody.

An Hon. Member: Come on. Come on.

Hon. Zane J. S. De Silva: Now, Mr. Speaker—

[Inaudible interjection]

Hon. Zane J. S. De Silva: I did not say that. No, I did not.

Mr. Speaker, I, like the former Tourism Minister, also had an issue with [section] 187A(d). Let us be specific. I have a serious issue with that, Mr. Speaker. And I understand, if I have read the legislation correctly, Mr. Speaker, that, you know, this, this . . . when you talk about a current member of Parliament, Mr. Speaker, looking at getting fines or maybe being taken to court for providing any goods and services to anyone directly or indirectly . . . Mr. Speaker, I have

³ Bermuda Casino Gaming Commission [press release](#), 13 July 2016

an issue with this because everyone . . . Well, many people in this House, Mr. Speaker, know some of the things I do. But they do not know all of the things I do, Mr. Speaker.

An Hon. Member: Thank God for that.

[Laughter]

Hon. Zane J. S. De Silva: I do not sell milk, yet, Mr. Speaker. But I may do so one day.

[Inaudible interjection]

Hon. Zane J. S. De Silva: But, Mr. Speaker, let me say this—

[Inaudible interjections]

The Speaker: Just a minute. Come on. Come on. Come on.

[Gavel]

Hon. Zane J. S. De Silva: Yes, Mr. Speaker, this bit of legalisation here . . . I agree with the Honourable Member. It may be appropriate, but the timing . . . the timing.

And I am going to speak on behalf of former Minister of Tourism Crockwell and the former Attorney General Pettingill, Mr. Speaker, because you know we had a situation in this House a few weeks, a few months ago, Mr. Speaker, with regard to this situation. It appears to me, and I will say it appears to me, that this bit here in this [section] 187D is pointed at a few people . . . it appears, Mr. Speaker. Because we know that those two . . . Well, one is still an OBA member, the other one is no longer an OBA member, apparently, Mr. Speaker. But we know that they were heavily involved with the gaming legislation in this country.

It is disappointing that this bit of legislation regarding this issue is part of these amendments. It is disappointing that the OBA Cabinet and the OBA backbenchers will support something like this that appears to be pointing at their own. It appears, Mr. Speaker, to be pointing at them. And it is a downright disgrace if that is the underlying goal.

But, Mr. Speaker, I do have some, and some other folks in this room may have some, issues with this bit of legislation. Do I as an owner of a trucking company . . . if I am asked to deliver some goods or some milk to the casino, Mr. Speaker, am I breaking the law? In Bermuda it conflicts . . . I think one of my colleagues was talking about it earlier. Conflicts are hard to avoid in Bermuda, Mr. Speaker. You will know that. Certainly, the Honourable Member from [constituency] 22 knows that. He owns more businesses than probably everybody in this House put together. So if

he does not have a conflict . . . he may have some conflicts, too, Mr. Speaker.

An Hon. Member: He does.

Hon. Zane J. S. De Silva: Right? He may have some, too. So this piece of legislation . . . you know, I am hoping that by the time we get in Committee, Mr. Speaker, that this legislation is . . . we deal with it.

The Hon. Dr. E. Grant Gibbons: We will talk about it in Committee.

Hon. Zane J. S. De Silva: Okay. The Honourable Member says we will talk about it in Committee.

So, Mr. Speaker, that said, those are my points. I look forward to Committee, Mr. Speaker, and us maybe diving into a bit more detail. But let me say that the Commission . . . I am going to go back to where I started, Mr. Speaker. You need to set some goals, set some timelines and we need to really get moving and let us hope that the OBA Government do not get rid of another tourism minister and then we start rolling all over again, Mr. Speaker, because they have had three or four in the last six, seven, eight, nine months. So let us hope that they can help the Commission to get on track and let us get our people to work and get some developers in the country.

Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

The Chair will now recognise the Honourable Member from constituency 20. MP Susan Jackson.

You have the floor.

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

I would like to take a moment and just reflect back. The whole premise around gaming in Bermuda is based on hotel developers who want to come to Bermuda and have as an amenity inside their establishments a form of entertainment that is complementary to other amenities that are within the hotel. So, you know, sort of the premises there that a family can come to Bermuda and they stay at a hotel and they play golf, they swim in the pool, they may go to the spa and then in the evening they may want to take advantage of some gaming. And, so, this was not meant to be some independent large scale new industry for Bermuda but was meant to be an amenity for the hotels that wish to establish themselves here in Bermuda. So I believe that it is very important for us to hold onto that vision and contain it within the guidelines of which the Government has proposed this new amenity to Bermuda.

So with the thought of gaming being an amenity within a hotel development, it is super important for Bermuda to make sure that we have the right regulations, the right standard for Bermuda to make sure that we are providing the best of the best for our Is-

land. One can imagine, I mean, certainly for decades we have all seen that gaming is a sensitive amenity, a sensitive industry. And Bermuda has to be super, super careful—because our reputation matters—that we make sure that we are structured and developed in such a way that all of our t's are crossed and our i's are dotted. This is exactly the kind of industry that we would bring to Bermuda and if it is not done correctly it is the exact thing that could spiral us out of control and downhill, Mr. Speaker.

So, I do not care how long it is going to take us to do it. We need to do it right and we need to do it right for Bermuda because, like they may say, you know, yes, there may have been an awful lot of excitement when it was first introduced but now that the horse is out of the gate we have to make sure that this is a winning horse, that we get it right and that it is a thoroughbred, and we are going to make sure that this industry is something that holds high reputation and a gold standard for this Island and attracts the right people to our shores.

So with that, Mr. Speaker, I would like to just continue on and mention that the Commission that has been developed for our gaming industry, again, has got to be of the higher standard. So we have got to have a group of people, commissioners, prepared to do the research, prepared to look at all of the legislation and make sure that right down to every single detail we get this legislation right. So we as a Government we have to take the advice of a Commission that is strong, that is knowledgeable, that is able to say, *Well, you know what? Maybe we did look at one way of doing this but we found a better way for Bermuda.* And if they find a better way for Bermuda we have to take advice on that.

So I am going to commend the Commission. I am going to encourage them to continue to do what is right for Bermuda because our reputation means so very much for us.

Now, when it comes to the licensing, yes, so we have a developer that wants to come to the Island. As I refer back to my original statements, every developer would like to have this as an amenity, and certainly I had my opportunity, Mr. Speaker, and we crossed paths this past summer in the Bahamas when we were there for a conference. We had an opportunity to see how gaming—

The Speaker: You know, you are letting them know I was in the casinos. Be careful.

[Laughter]

Ms. Susan E. Jackson: Well, you were doing your civic duty. You were doing your civic duty, Mr. Speaker.

But I do want to say that the amenity of gaming in that jurisdiction is such that, you know, I understand how important it is for a hotel development to

want to have gaming. So if we have to provide any kind of provisional licence or, you know, extend ourselves in that manner, I certainly commend the Commission for negotiating and allowing this to take place.

But it is something that hotels do want to have. It does not in any stretch of the imagination, Mr. Speaker, dilute or in any way minimise the level of scrutinization that all of the applicants for a gaming licence are going to go through when they make application here on our shores in Bermuda. So it matters not whether it is provisional whether an application is coming through the Commission . . . all of them are going to go through an extensive and detailed scrutinization and investigation. So it is all going to end up being the exact same in the end. No one is going to get a free ride in the gaming industry here in Bermuda, Mr. Speaker.

Now, there was some piece that the Member from [constituency] 29 mentioned. And, in closing, I just want to clarify this. I do not know the details about any kinds of discussions and advice that has been received from different operators within the gaming industry. But I do know that there is going to be a reason for us to reach out to other operators who are licensed to seek their advice to possibly collaborate so that we can share information. And there has to be a level of confidence that this kind of relationship is going to be okay.

For me, I can sleep at night, Mr. Speaker, because I am. Rest assured, any operator that is regulated in a jurisdiction outside Bermuda, in particular, the United States of America, is very heavily regulated. So I do not see where any of the operators that are licensed in the United States are going to in any way jeopardise their success by coming to Bermuda and then doing something that is untoward. So, certainly, I have full confidence that if we do reach out and either seek the advice or work with other regulated operators overseas that we certainly are going to get good advice and we are going to be working with people who are highly reputable in the industry.

In closing, Mr. Speaker, I just want to also mention that it can be sensitive when Members who are in either high profile or important positions are sometimes held at higher accord than others. It is not just, maybe, people who are working in public service that once we are no longer in public service we have to be very careful with the relationships that we make until we have distanced ourselves enough from our public service, as an example. The banking industry does the same and a number of industries . . . if you are in a profession in those industries there are certain areas that you are encouraged or sometimes legally bound to keep your distance from and have a certain level of objectivity come back before you are able to get into relationships or professional business relationships with certain people.

So I just want to say that although it does feel very sensitive for us as public servants to sometimes

have to bow out of opportunities that might be made available, I certainly understand from a regulatory environment and just . . . we are just highly scrutinised and so, unfortunately, sometimes we do have to take that backseat.

But I do, again, Mr. Speaker, believe that Bermuda is looking to be the best in this industry, that we are going to do it right and that we will continue to move in the right direction to get the job done, and with all of the thorough scrutiny that will take place Bermudians will still have a huge opportunity to work in an industry that will be highly reputable.

Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

The Chair will now recognise the Honourable and Learned Member from constituency 36, MP Michael Scott.

You have the floor.

Hon. Michael J. Scott: Thank you, Mr. Speaker.

Mr. Speaker, I rise to reflect on the Casino Gaming Amendment Bill largely in connection with the point taken now by two speakers this evening. And as I do so, Mr. Speaker, and before I do so, I would like to acknowledge the presence of the Gaming Commission team in the House. Ms. Blakeney, Mr. Schuetz, a gentleman whom I do not yet know but I am going to go over and introduce myself, and my colleague, Mr. Dunch, whose work we wish to acknowledge and thank him for the work that [he is] doing.

But I rise to deal with them just on a matter of legal principle, points that have been raised by the former Minister of Tourism (the Member for constituency 31) and my colleague the Member for [constituency] 29. And I am not sure when the Government is going to learn that . . . I certainly do not want to be associated with targeted legislation. When will they learn that this kind of thing should not be done in the name of all Members of the House?

We saw it with the Bermuda Bar Act in 1974 when they made that amendment which caused a former Member of this House to just fail in his capacity to trade in Bermuda. What are the general principles? And this was the Julian Hall action, and now we are having it again. These kinds of restraints on trade in a nation this size, in an island-state this size, have magnified impact. That is why I do not want to be associated with it. And now we find it here in this Act.

The general principles are that—as applied to restraint of trade contracts—at common law they are *prima facie* unenforceable. They are enforceable if the person seeking to impose them has a legitimate interest to protect. Well, what is the legitimate interest to protect here? This is a statutorily imposed restraint on two persons in this House, that we know of for the moment. There may be some other practitioners. I stand in their behalf. We do not need this to be continual to happen. So the Government has to persuade

me and Members of this House what is the legitimate interest to protect.

The second test: Is the restraint reasonable in the context of the protected interest. Is it reasonable? And one of the tests for reasonableness is that time period of the restraint (in this case it is two years), and the geographic area over which the restraint is going to apply. Well, we live on 20 square miles in this country and practitioners practice in the square footage of the City of Hamilton, unless they are practicing outside. It will have a major geographical impact. In countries like Britain or the United States, you can go into the next state and practice and maybe make a way. But that cannot happen here, which makes these kinds of restraints impractical and heinous, as high as that, in our jurisdiction. So why do they end up in our statute books being done in our names?

The other interest is whether it is as a matter of general public interest to have this kind of restraint. And I cannot see what general public interest it would be in having a restraint of trade that does things that are similar and takes us on similar journeys that we have seen in the Bermuda Bar Act with my colleague, the former and the late Julian Hall. So I stand largely on that principle. State the principle and ask *is it reasonable?* And I suggest that it is not.

In two years, for example, the opportunity for the two Learned Members of this House to make a way in this business will be lost, and it will likely be lost forever. Two years might be reasonable in a larger jurisdiction, but in Bermuda it will be fatal, or potentially deadly. Everything about this short 187D, (a) through (c), is heinous, and for all practical purposes harmful, and I do not see why we continue to make these mistakes in this House.

I heard the Honourable and Learned Member, Mr. Crockwell, speak about it and lament it. He should have called for it to be struck from the Bill. I do not want it done in my name, and I want to make this point abundantly clear. So that is the point on the Bill (a Bill, otherwise, one that this Opposition supports).

May I turn to the other point now? Just very briefly. So I heard the Honourable Member who just took her seat say, *Oh, we do not care how long it takes.* Well, I hope that is not the official line of the Government now. I mean, that is a death knell to gaming finally coming on board and that is what I thought.

When I met with Mr. Schuetz and Mr. Dunch, we were pursuing this policy with the view of driving employment, supporting investment and . . . there is a schizophrenia going on in the Government. I mean they say that they are interested in these two concepts for our country. They set off in election campaigns and say that these are their driving forces. They pursue the airport proposition with unrelenting, unmitigated zeal and now we are beginning to hear . . . well, the evidence is clear. This thing is beginning to take on a life of its own. I am talking about casinos.

There needs to be consistency. And as all Members have called for, this matter, if it is meant to signal to investors and hotelier investors and the people of this country who are looking for jobs as my colleague the Honourable Member for [constituency] 31 has indicated, if there is an expectation that this is going to contribute to these important fronts, this is certainly not the way to go.

So I hope that we get on with . . . I join the call for us to make this casino initiative roll to a speedy conclusion. And it should not become a political mechanism tool now for the Government to use to foster its election or re-election prospects by controlling it and assigning it strategically in connection with making propositions being in a position to make a better proposition that will draw this out in time to say that we are creating a hotel in St. George's. I hope that is not the level to which the thing has sunk because it will have completely lost its original intent.

So I think those are the matters that I want to primarily raise to say that we support an acceleration and the picking up of speed with the introduction of gaming and casinos in this country. I implore the passage in the name of Members of this House and/or my name . . . I do take it personally, section 187D, and I join with the Member for [constituency] 31 and my colleague from [constituency] 29 in asking that this should be rejected. There is no legitimate justification for it in terms of reasonableness, protection of interests (whose interest God knows only) is really being set out here, and it is concerning that we should find it in this fashion.

Thank you.

The Speaker: Thank you, Honourable Member.

The Chair will now recognise the Honourable Member from constituency 25, the Learned Member, Mark Pettingill.

You have the floor.

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

I remember once getting lost in a car driving in Ireland.

An Hon. Member: Where?

Mr. Mark J. Pettingill: In Ireland. In Ireland. I was driving across Ireland—

[Inaudible interjection]

Mr. Mark J. Pettingill: And I probably should not have been there.

But I stopped. There was an old farmer on the side of the road. I pulled over and I said, *Excuse me, sir, can you tell me how to get to such-and-such a place?*

And he pondered for a moment and he said, *Well, to be sure, you wouldn't want to be starting from here.*

You would not want to start from here. And, of course, this is where I am at so I had to start from where I was. And that was the answer that I got.

I feel a bit like that tonight. Where do I start from here? Because the fact of the matter is that I have been significantly involved in gaming . . . in the industry, well, the non-industry, in trying to get things going. As Attorney General I did it. Heaven knows, that was just about walking around with a lightning rod on your head when that stuff was starting off, because whatever you did the lightning was going to strike you. You know, that is politics. I got that.

I know this: You know, after what many had criticised me with on the other side for meeting with people that were showing an interest in Bermuda, the Honourable Member, my business partner, Mr. Crockwell and I wrote to those individuals and said, *Let us be very clear. No decision on any gaming licence will be politically decided. There will be an independent commission. There will not be a Minister that decides this or a Government. We set that out in writing right after that. That is a fact, and that is the way it happened.*

We were advised to go to Singapore to have a look at their model. And nobody said then come back and take everything that they said and implement it in Bermuda. Of course, when you look at it, you scale it down because we are a smaller place. We are not going to build a Baha Mar. We were not going to build the type of casino that they had in Singapore that our population could stay in. It was a scaled down position.

[Inaudible interjections]

Mr. Mark J. Pettingill: It was significant. You know what I mean . . . how big it is, right?

You know, we are not going to have something like that. Our model was an amenity to a resort hotel operation . . . an amenity—a boutique casino. Now that is where I left it. And in going into private practices, I am heartened to hear what the Honourable Member Mr. Scott said with regard to the situation. Because there are many, many people in this House in business that stand up regularly, and rightly so, and say, *I must declare my interest. I got a conflict here. I must declare my interest. I got a conflict on this one. I must declare my interest. I got a piece of this. I must declare my interest. I was involved in this.*

Week in and week out, Mr. Speaker, we hear that in this place. So show me where anybody else's conflict of interest tells them they cannot participate in making bucks in that business for two years after they leave this place!

[Inaudible interjection]

Mr. Mark J. Pettingill: And they explain to me how equitable is that . . . to my business. I am the only law firm that going into private practice advertised gaming as part of the service that I was going to provide. And I have had significant clients doing it. Now, Mr. Crockwell and I got fired by one of them the other week because of comments that were made in the newspaper—

An Hon. Member: No!

Mr. Mark J. Pettingill: Fired! They called up, *Hey guys, sorry. We didn't really want people to, you know, this is a confidential relationship to start with but, you know, we don't want to have a hot potato, that type of thing. Thanks.*

Thanks. That is just a fact.

And nobody has come to me and said, *This is how we are going to ameliorate your position, Mark.* Nobody has called me to ask for advice on this stuff, for my view in relation to these amendments or others. I am the only lawyer in this country that is a member of the International Association of Gaming Advisors. And I spoke with them on many occasions about what has been going on in relation to the issues that we have. I told them about some of the stuff that is going on, and I will just tell you one of the lines that I got back was, *That is ridiculous*, with regard to what people feel that they can and cannot do and should or should not do and what is a conflict and what is not and what is an appropriate declaration and what is not. *That is ridiculous*, but nobody asked me . . . or even how I would feel about this.

Maybe it doesn't impact on me because I have been out, I guess, two years. But my business partner has not been out two years. So where does that leave the practice? We build a wall between us and all that so he cannot do it, but I can? Nobody has called up to say, *Hey, it is not retroactive on you guys because legislation, as you know, cannot be retroactive so you are all okay.* But in good conscience, I do not know how that makes it fair on Mr. Scott when he finishes up. I can do it and he cannot? Because it is not retroactive? I do not know . . . I have not heard that.

So it was a bit jaw-dropping for me when getting this and reviewing these sections which appeared after Minister Crockwell resigned the extent of what is involved and the way that they are set out, the comparative analysis with what other jurisdiction has them that is comparable to ours.

Today the Honourable Mr. Crockwell asked the Attorney General (I do not see him in the Chamber tonight) . . . we passed a Bribery Act. We have a Criminal Code that deals with official corruption. We have PEPs. We have all kinds of legislation that cover us as legislators from what you do. The Attorney General made it clear that the Bribery Act was the

umbrella that covered all kind of conduct like that. Everything up and down, a list of legislation that I can think of that would bar you as a practitioner, as an individual who had been a legislator or a commissioner or an employee of the commission from engaging in certain conduct which amounted to taking a bribe or a favour or a complimentary service or a discount . . . all the things that are set out in the provisions of this Act—if you are going to provide something to give somebody a favourable position.

That Bribery Act, and maybe rightly so, is so broad . . . Members, for heaven's sake, do not have a sandwich from anybody, let alone a drink, and then sit on any type of board or in a position. The Minister that says, *Oh, yeah, they can have it . . .* do not have a sandwich! Do not have a drink of any kind. Do not do it! Do not get a lift in the rain! Why? Under that Bribery Act.

So why do we have to have this here when we have all of those penalties that say if you run this red light you are going to get burned, because you know what the rules are (or you better know) . . . you know what you can and cannot do. How can you then tell somebody that, but you cannot drive the car for two years . . . you are not allowed to work for two years after you leave here. I do not know how much people think we are getting paid up here.

[Laughter]

Mr. Mark J. Pettingill: You're laughing. But I know I got to work. I am looking across, I see other people, but everybody works outside of here. I mean . . . hold your hand up if you are truly a full-time, full-time Member of the Opposition, a full-time politician here. You do not have other business interests or something else is going on.

It is a small place. Everybody has a piece going on somewhere else. But now in this particular thing which is significant, a significant business, you cannot be involved in that for a period of time. If that is not restraint of trade then I do not know what is.

But here is my conundrum: This needs to move forward in the interest of the country. These things have to be done in the interest of the country. So we are here . . . we sacrifice in the interest of the country. So I guess if we pass this tonight, tomorrow morning the former Minister Crockwell has to call all our clients and say we cannot work for you any longer. And nobody has explained to me how that works or even said, *Oops, sorry, guys. Sorry. You are done. Sorry, you cannot do this.*

Now, okay, okay—

[Inaudible interjections]

Mr. Mark J. Pettingill: No, no. Certainly, no favourable treatment for me. I get it.

I would like to see where the other clauses are because of the bigger picture, it requires my support because otherwise we are not going to get it done. I guess you cannot work for Desarrollos. And then in the very same Act, myself as Attorney General, the former Minister Crockwell as the Tourism Minister having written to a group of people just sniffing at what was going on in Bermuda and looking at saying, *Oh, is there opportunity to develop there*, looking at potential for the St. George's site, making it very clear to the country, standing up here saying there was nothing wrong with what was done there.

The Members on the other side in here saying, *Well, the Commission should not have gone and been talking to those people. They should not have been talking to Caesars . . .* that is what Members have been saying. *They should not have been over here talking to other developers.* I happen to agree with that.

I do not think that is their remit. I have said it. I do not think they should have. They think it was okay. But it would not be okay now once this law is passed. But it was okay then. Okay, we disagree.

So, all of this stuff being propagated about conflicts and then we roll up and say but we are going to give Desarrollos a special position, a leg up, a favourable spot, and there is no other way to cut it, Mr. Speaker, because why even mention them? And my little partner and I disagree on this, because he gets it and I am trying to get my head around it and it has been whirling in my head . . . How do I address this one?

After everything I have said, after everything that certainly I made clear about how we are going to be a level playing field . . . How many times did I say that? Independent commission. No political involvement. How many times did I say that as Attorney General? How many times did I say that in this position here? I cannot tell you how many times I have advised clients on that. *You are not going to get any advantage here. I can advise you on the law and what you do here, but there is no special inroad to it because our white hat jurisdiction is having a level playing field.*

But somewhere we are going to have to do some serious explaining because we have placed a developer in a position of advantage over other applicants.

Now, let us be real. Maybe that is just the nature of Bermuda because we have to get something done. And now we are all in a conundrum, so let us not be hypocritical ourselves and pontificate on, *Well, you should have done this.* And I said it last week, and maybe the Commission should hear this as well. You stand in a ring full of mud wearing a white suit and you start splashing around, guess what? You are not walking out looking pristine. You are not. And if you stand there and do nothing you are not walking out looking pristine either. And much to that point, maybe that just

does not help our jurisdiction. So this whole casino thing has now become like herding cats. Meow! Like, good luck. You can do it with dogs; you cannot do it with cats. All over the place, herding cats.

[Laughter]

Mr. Mark J. Pettingill: And they are not like cattle. They will wander off and do whatever they want to.

So the Commission is over here doing this, Minister over here doing this, Opposition saying *do this*, people advising *do this*, all over the place, taking so long I found it astounding.

I have had the view on why has this taken so long. Why could we not just narrow it down and get to it so much more quickly than what we have done? I believe we should have had and should still have gaming for the America's Cup. I believe that we could have a cashless system in place like other places that works.

I declare an interest there. I have clients who want to do that. I declare my interest.

An Hon. Member: Today?

Mr. Mark J. Pettingill: Today. Well, they will not be my clients tomorrow, but today. I did have.

But look at that, it makes eminent sense. But we are off looking at this, looking at that, and we are not moving this forward. I know that is the Premier's goal. He wants to move things forward. He wants to move things forward, but something is tripping us up and getting us all in the way.

So on this Act in the interest of moving it forward, it looks like I have to eat it on the business front and accept that because of those amendments made, despite all the further legislation that is out there—the umbrella of the Bribery Act. I do not know who, I do not know . . . I asked the Attorney General if he wrote this as he was bringing forth the Bribery Act, so I do not know how or who or where it has been drafted or what has been done with regard to laying this legislation—

[Inaudible interjection]

Mr. Mark J. Pettingill: I do not know! I know it kind of came out of left field when I heard about it and the Desarrollos clause is in there which I see problems with.

I do not even know why it is in this Act. We passed this morning the St. George's Act. Why is it not in there with regard to that? Obviously, it does not take much to realise that somewhere in order to get a development done that had to be there or nothing was going to happen.

But that is not where it started, with the developers. I know because I was in the room when those presentations were made, and that was not part of

any position. So the goalpost moved, the cats got called and herded around, and we have to get these things done. But I am sure that Opposition Members despite looking at this and shaking your heads and all the rest of it, you know because you have been in this movie. You wanted to get it done with Bazarian. You had it in a lease. I had issues with that. I jumped up and down on that one. *You cannot have this, renounce their lease, did away with it.* Why did you have that in there? You were trying to get something done—

[Phone rings]

Mr. Mark J. Pettingill: [That's] not me.

You were trying to get something done. That is what was propagated at the time. I was the one that said we cannot go that way; we cannot do it.

But here we are having to effectively address the same type of problem because of the bigger picture. So I get it. The bigger picture is we have got to develop, we have to have jobs, we have to get things done, we have to make things happen. So I get it. But it does not mean that I have to like it. And I do not.

I guess that is what, you know, the road is leading me to. I would like it to have been different. I do not think we need to have the [section] 187 provisions because we have it all over the other place. I think it is superfluous. I do not think that it reflects what is in other jurisdictions of our ilk. I have researched that. I have not seen it. California is not Bermuda just like Singapore is not. You know, Nevada is not Bermuda. We are all different.

You have to take the best of what you have in other places, look at the size of your jurisdiction, Mr. Speaker, and what you are going to do and scale it down. Because as this stands right now on my read, Honourable Members, everybody and their mother is conflicted. You know? If you have a friend that is living in an apartment in your house, he is probably conflicted as well. That is how broad it seems to go in a small community.

So I do not understand why like everything else we cannot just have someone stand up and say, *I declare my interest.* That is what you have to do for the bank. You have to tell them this is where I make my money. This is what I do, *ad nauseam.* Like I said, it would be a cottage industry and it is. Why not with this? This is where . . . you know, *This is what I did and this is what I do now and here are the lines.* No special favour.

I was never in a position to give anybody a casino licence or any particular favour or anything like that. Certainly any of the things that got whispered or said about me or generated with regard to . . . are nonsense—could not have done it had I wanted to. So I know where the lines are. The point is you stand up with transparency and say *I declare my interest*, as we have heard many times.

I have an involvement with this. I advise people, like I have said, in relation to gaming in Bermuda, gaming systems and so on and so forth. I have done that. I did that before I was Attorney General. I was the guy that represented the gaming machine guys. That was me. So I have been around it for quite some time in this jurisdiction. I was the one that spoke to it with regard to the casino ships, *ka-ching*, that are down there with all the money going, you know, somewhere else because we had to do that to let them have it in.

So, Mr. Speaker, I think I have said what I have to say because I am not happy about a lot of things here. I am not happy about things that have been done or said in relation to the whole House on both sides. It is just mudslinging in relation to this particular industry that we need to get on and get something done because I believe this: the only way that we are going to revitalise tourism is if casino gaming does exactly what we all wanted to have it do which is form an amenity to gaming resorts.

That is what we need to have. Not some big wild, you know, big huge development because we do not have the traffic for that and we are never going to have it. That is why Baha Mar went bankrupt before it even opened its doors (and that is [in the] Bahamas). We are never going to have that kind of traffic on an Island like this to build a Wynn Palace.

Now that is my assessment and that is the assessment of a lot of people who are significant professionals in the industry. We were not going to be able to do that, and that is why we decided to go the way that we did. And it seems we have gone this circuitous route, checked out all these things that maybe we could have done outside the remit, and we are back to where we should have been in the first place and we are moving the goalposts here and there.

I say all of that for my honourable friends on the other side to say, *I get it.* I get the politics of it. I get the problems with it that turn in my gut. I get the legal issues of it that is for sure. But at the end of the day I think we, as a House, are going to have to eat it.

I am obliged for Members coming out and supporting me, effectively, or my partner, my business partner. I believe that that is a sincere interest, too. I do not think they are playing politics. I think they know us and they feel that we were wronged because they know like the former Attorney General, Mr. Scott, said, he has been in that position. He would not want to be in it again. So, it is a degree of understandable self-interest for his own as well that work in law or whatever else they work in. The Honourable Mr. De Silva . . . can he do this, can he do that? So everybody has a degree of self-interest going on and rightly so. It is not about the Pettingill/Crockwell clause. I get that, right, but it is just that it is highlighted here because of it.

So I get it all. But the truth of the matter is . . . but I guess we have to get it done because I sure as heck cannot stand up here and jump up and down

and say—throwing my toys out of the pram that because it is a clause that may directly impact on me—I am not going to support the way forward.

Now, I would love to see somebody bring some amendments to [section] 187. I would love to hear some comments from the Minister as he just said when we go into Committee with regard to perhaps ameliorating some of this or if someone on the other side has drafted some amendments . . . I have not seen anything yet.

[Inaudible interjection]

Mr. Mark J. Pettingill: I almost think . . . no, no, I almost think it is a conflict of interest for me to do it.

[Laughter]

Mr. Mark J. Pettingill: It is a conflict of interest for me to start drafting amendments on the floor of the House in relation to this.

So if everybody, you know, has objections and issues with this on this side or on the other side or has problems with it, then lay your amendments and let us debate this. The Minister said that we are going to go into Committee on it—let me hear how we are going to address each clause and what the run-on is and maybe what we should amend or what we should not. I am not going to jump up and down and raise all my concerns. I may raise a couple of things in Committee that I think we need to look at, that I think are problematic, that are problematic as to how they get done but I can raise those there.

I would have liked to have done it before the Act even came along and tried to give some advice and assessment and feedback. But, you know, maybe it has to be done at this stage.

So, in summary, Mr. Speaker, it is what it is. It is what it is. Desarrollos is what it is. You know, St. George's needs to get something on the go. This Government has brought ships back. It is determined to bring the hotel back. I get it. When people come along and say, *Well, we do not really quite think we can go ahead unless we are pretty sure about this. And we need to know and have some comfort*, like sovereign guarantees and all these types of things that all governments do, concessions that all governments do to make it a little softer and a little easier for people to look at the bigger picture to get jobs on the go and all the rest of it, I get it.

But be prepared, because there are other places that are going to put up their hands (and I know that certain Members raised that earlier), and say, *Why not me? Why are they special? I want to develop. Why do I not have the same treatment?* That presents us—me, as a member of the Government, as a backbencher—with a problem because I have to explain that as to why you are not quite as special as

these other people here. Your investment is not quite the same. It is a problem.

It is problematic. You know, it says in the amendment, in the public interest—and I get that in regard to St. George's because it is in the public interest down there. They have been a ghost town for years. They need this. They need something. They need it really to happen down there. But, boy, if I had spent a heck of a lot of money somewhere else, I would be wondering *why not me*.

But, Honourable Members, I will take my seat. I have had my say, and I will close with this. I do appreciate this: We have to get it done to move forward despite what our issues might be with it.

Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

[Laughter]

The Speaker: You have time. You could have been down and in your seat—

[Inaudible interjection]

The Speaker: The Chair will recognise the Honourable Member from constituency 21, MP Rolfe Commissiong.

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

Mr. Speaker, it seems that every time the political interests of the Government come hard up against the interests of the country, then the country has to take a backseat. Remember the Jetgate debacle? We remember the *referendum-gate* debacle. Both of those issues were tied to the same issue that we are wrestling with here today. Certainly, most Members have spoken quite eloquently on the subject at hand, including my representative from [constituency] 25, who I will deem the "Independent Member" in everything but name, who has just taken his seat.

Mr. Speaker, I believe that the same process has been in play here, that the political interest of the OBA Government has taken precedence over the country's interests with respect to the one of two sets of clauses that everyone has made reference to.

Now I heard the Member from [constituency] 25 make mention of the fact that the PLP Government had essentially promised Mr. Bazarian a licence, a casino licence. But we need to understand the context. There was no legislation that had been passed. Certainly there was no Commission as we have now. There was no framework by which that at that time could have been made manifest.

We also know, as was alluded to earlier, that the Government was divided, and that may be putting it kindly—characterising it somewhat optimistically at that time about the issue of casinos being implemented in Bermuda, or gaming, as were the public. I say I

am putting that kindly because in some ways it may have been at that time a slight, moderate majority who were opposing the implementation of gaming in Bermuda by whatever form it may have taken.

So, that is the reality of where we were and where we are today. I certainly, with respect to the provisional casino licence model . . . this would have been fine for me if not for the fact in terms of [clause 18] if it did not say the following: “32A(3) Notwithstanding subsections (1) and (2)(b), a provisional casino licence is hereby granted, in the public interest, to the Developer, as defined in section 2 of the St. George’s Resort Act 2015 . . .”

I do not know how the commissioners after seeing that, not the fact that they have decided to establish a provisional licence model, but that they have now essentially afforded as the Member from [constituency] 25 said, or I am going to paraphrase, has given a significant advantage to a prospective developer over all others. I do not know how the commissioners, the CEO, and, more importantly, the chairman, do not have smoke coming out of their ears and how they have not gone into the public domain to warn Bermuda and the Government about this breach. Because I think it is a serious breach that undermines the integrity of the process and undermines the work of the Commission, notwithstanding the criticism of some of their actions as afforded by my colleague in constituency 29 only some time ago during this discussion.

Certainly, Mr. Speaker, it just boggles the mind. I do not know how other developers, foreign investors, will view this other than to be at the very least deeply concerned about this development, because it certainly places them at a disadvantage and gives, again, an advantage to a current player. In some ways the Government has usurped the powers that they gave to the Commission in the first place. I guess the Lord giveth and the Lord taketh away.

Mr. Speaker, we all know that we need to jumpstart our economy and job growth. I, too, believe, even though I get a sense as the Member from [constituency] 31 mentioned, that the momentum that was surrounding this issue has begun to dissipate largely because it has taken so long. The missteps here have been another indication of the challenges afforded by the Government which have prolonged this process and our nightmare around this issue. We need to move and to get this done. But to see this type of thing take place, again, in a way which appears to undermine the process and appears to undermine the goal of the Government in bringing forth a product and a confidence around it that will enhance our prospects for attracting investment, is very troubling.

Certainly, the lessons that should have been learned around the issue of Jetgate and the referendum debacle have not fully been learnt as yet—the political lessons. And just to return to the thing about the listeners out there, remember about the referendum thing. It was so egregious what the Government

did, so insidious what they asserted that they were prepared to abandon the ability of Bermudians to make a decision on the referendum on gaming specifically because of a trumped-up charge which they shamed facedly placed in the public domain that the PLP Opposition was prepared to advise its members not to vote in favour similar to the debacle, some may say, that occurred during the referendum on independence in 1995—when frankly, no such gambit was being advanced by the PLP. Another example of how their political interest overrode what was in the best interest of the country.

So we see over and over again the same pattern being played out. Again, how the commissioners and the chairman are going to take this laying down is beyond me.

But just very quickly going over to the issue of [section] 187D on the issue of the apparent intent of the Bill here to ensure that (I guess I will use an American term) there will be *no revolving door* of legislators and/or Ministers who will have had significant involvement in legislating this or leading in this area with respect to gaming as a Minister. For example, perhaps, not being able to then work in the industry when they are no longer in that governing capacity. I can understand why that would cause such consternation on the part of, not only the Members who obviously have a direct pecuniary interest here today, the two Learned Members, but for others in this Chamber.

You know, I remember—bearing in mind what was said about the smallness of Bermuda as a jurisdiction and the fact that conflicts are unavoidable in Bermuda—I remember when Dr. Ewart Brown, the former Premier, made the same statement about six or seven years ago, what Members reaction was to that. But it is a reality we have to deal with. But then we have to balance that against real world best practice globally. And so I am not totally unsympathetic (if that is the right word) for us to have to take notice and to make provisions so those types of abuses do not take place. I notice that both Members while speaking of the potential harm, direct harm, that it was causing to them and others did not seem like they were prepared to understand that it does pose a potential abuse.

How we craft the right balance here that does not impinge upon the ability of Bermudians to earn a living, to conduct business because of their political involvement as legislators or as members of the Cabinet, as opposed to what is in the best interest by way of best global practice in terms of the industry itself is a dilemma. Again, we are not a large jurisdiction. But the risk, if I can use that term (that is what I will use), still needs to be (to use a word that I heard earlier) ameliorated. How we square that circle, again, represents a dilemma.

So, I am not going to . . . I will probably speak again in Committee. I think that I have made my arguments. Again, I just want to recap. I think that what

we are seeing here with respect to the provisional . . . not necessarily the provisional licence but the fact that you also had in this Bill a provisional licence being mandated to the St. George's entity under Desarrollos, to me, again, is egregious. It speaks to the issue of integrity around this process. I do not think it is very helpful. I think, again, it is an example of the Government putting their political needs ahead of what is in the industry's, prospective industry's interest and certainly Bermuda's interest.

With that, Mr. Speaker, I will take my seat.

The Speaker: Thank you, Honourable Member.

Any other Honourable Members care to speak? The Chair will recognise the Honourable and Learned Member from constituency—

Ms. Leah K. Scott: [Constituency] 30.

The Speaker: Constituency 30. MP Leah Scott, you have the floor.

Ms. Leah K. Scott: Thank you, Mr. Speaker.

I am going to try to lighten things up a little bit.

The Speaker: Try to do what?

[Laughter]

Ms. Leah K. Scott: Lighten things up a little bit.

The Speaker: Can you say it again—do what?

Ms. Leah K. Scott: I am going to try to—

The Speaker: Lighten things up, did you say?

Ms. Leah K. Scott: Lighten things up. It is kind of heavy in here.

[Laughter]

The Speaker: This is a heavy subject.

Ms. Leah K. Scott: It is kind of heavy.

Mr. Speaker, I am not a gambler. I have always been one of those people that if I am putting out my money, I want a pair of shoes or some jewellery at the end of it.

The first time I was in a casino I was on a cruise. I was with some friends of mine and my girlfriend put a \$50 bill in the machine and within two minutes it was gone and I was horrified. And then she wanted to put another \$50 in and I was like, *You have got to be kidding!* So gambling I do not think is for me. However, I will put a little wager on the top football team—

An Hon. Member: Who is that?

Ms. Leah K. Scott: Say it out loud, you will never walk alone. Never walk alone.

[Inaudible interjections and laughter]

Ms. Leah K. Scott: No! The Indianapolis Colts.

[Inaudible interjections and laughter]

Ms. Leah K. Scott: Mr. Speaker, the premise of gambling or having a casino here was that it was supposed to be an amenity in the hotels. When I travel I look for a hotel that has a gym. So I understand that when people are travelling they are looking for something that is going to accommodate what their interests are. I do not think that having a casino is going to be a panacea for Bermuda, but it is going to be something that I believe will boost our tourism efforts and somehow boost the economy and create jobs.

We are trying to establish casino legislation and regulations in a challenging regulatory environment as evidenced this morning by the Bribery Act that we passed. We also have the Proceeds of Crime Act—a lot of pieces of regulatory legislation that make it difficult for us to do things very quickly.

I know that legislation—we passed this legislation, the substantive legislation, sometime ago. So I appreciate that once we pass legislation, oftentimes we go back and look at it and think, *Well, there are some changes or amendments that we need to make.*

Generally, I am in agreement with most of the amendments that have been made. However, I do have concerns with the two-year cooling off period that has been incorporated. My concern, as with everyone else, is the timing of that incorporation. That is a substantial amendment that should have been set at the outset of the legislation, and I cannot imagine when the substantive Minister at the time was having this legislation drafted that that would have been something that he had overlooked.

My understanding from the Minister is that this cooling-off period is something that is required by the corresponding banks in the US. It is a regulatory requirement. And I would hope that the Minister when he gets up to speak would address that even further. However, I do think that if there is a way in Committee that we can work toward a resolution that is not going to deprive anyone of their ability to carry out their business, then I think that is something that we should do.

I agree with MP Crockwell and MP De Silva that this is something that we need to get moving on. People need jobs. They do not want the hope of having a job or the possibility. They need tangible evidence that they are going to be able to have jobs and I hope that the jobs that they are going to have are not going to be at the lower end but they are going to be across the entire spectrum from managers to (what do

you call them?) croupiers and card dealers. You know, I do not go into casinos so I do not know what they are called. But I hope that the jobs that they have are going to be across the spectrum and not limited to the lower end jobs because we have people that have skills across the board and our people should be aspiring to manage all positions. It should be as Bermudian as it possibly can be.

I think that casinos can make an important contribution. I understand that there is a lot of negativity that is associated with casinos. You have, you know, prostitution; you have people that are taking their money for rent and then going to casinos and spending it. I understand that we are going to have regulations and legislation in place that should prevent that and I think that if we can get robust regulation going, I think that it will be a good thing for Bermuda. I appreciate the Minister for bringing it forward. I think that we do need to get things moving because our people need jobs.

Thank you, Mr. Speaker.

The Speaker: Thank you, Honourable Member.

Any other Honourable Member care to speak? Minister? Mr. Minister?

Oh, you are . . . I was calling on the Minister to close.

[Inaudible interjections]

The Speaker: But I will . . . I will allow the Minister of Home Affairs. You have the floor.

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

Mr. Speaker, much of what has been needed to have been said has actually already been articulated tonight.

The Speaker: Right. I think so.

Hon. Patricia J. Gordon-Pamplin: But I think it is important to make a couple of comments to underscore where we are.

I think it is quite evident and it is generally accepted that the wheels of Government grind very, very slowly. And we have heard Members opposite, as well as Members on our side, express the frustration of this taking so long to get to the point where it is. Certainly, as the Minister responsible for Labour, I look at one big picture. And the picture in a four-letter word is called "work." I want work, I want work and I want some more work, Mr. Speaker.

Mr. Speaker, to know that we have the possibility of an industry that can start to ameliorate that challenge that we have with joblessness, I think we have to show an enthusiasm about being able to reach the stage of getting something done. But what we did not want to do . . . and I take the point by Hon-

ourable Member from [constituency] 29 in which he mentioned that we should be starting training opportunities and we ought to be able to do it now. There is a thin line, Mr. Speaker, between training somebody, to say, *This is coming down the pipeline and we want you to be ready*, and being able to say, *This is taking so long that my promise to you is vacuous*, and thereby creating more frustration. So, we want to make sure that there is that delicate balance, that tightrope, that has been walked, that has been traversed to the extent that the timing of the training will juxtapose perfectly against the creation of the jobs for which the training is being offered. I think that once we are able to determine that equation, Mr. Speaker, I think that we have something that will be important to our people to be able to put them to work.

I have to say that, and I do not want to pick on the Honourable Member from [constituency] 29, but I think that we have to. You know, it is lamentable that we do not have the ability to debate issues in this House without being able to cast aspersions on individuals. I think that when we had, you know, the comments made by the Honourable Member from [constituency] 29 effectively vilifying and castigating some of the decisions that have been made by the commissioners, by the people on that Commission, I just think it is unfortunate because I think that we can elevate our level of debate in this Honourable House, Mr. Speaker. I think that it is time that we have to start looking at that.

Mr. Speaker, I think that we have heard comments already with respect to our requirement to both through the Anti-Money Laundering (AML) and Anti-Terrorist Financing (ATF) make sure that we have the necessary jurisdictional protections that are necessary once gaming comes into effect and that is one of the challenges with which every jurisdiction that has gaming has to grapple with. It is one of the reasons why the banks, because of the new regulations . . . you know, there was a time, Mr. Speaker, that money laundering played a very insignificant role in the overall scheme of things. As time has gone on and especially with the rise of terrorism, we cannot even for one second underestimate what can happen if we do not have the necessary protocols and regimes in place with respect to anti-money laundering and anti-terrorist financing.

You know, I heard criticism for our Honourable Members who took advice from the Innovation Group, the very same group that were hired by the previous administration when they looked at gaming and how it could be implemented in Bermuda. They made the recommendation that we need to look at various jurisdictions to find out what model would be appropriate. Then once the Spectrum Group came on board, Mr. Speaker, they recommended Singapore.

And, yes, we heard Honourable Member from constituency 6 indicate that he went to Singapore, he went to Macau, and that was wonderful because that

was necessary. That Government at that time decided that there was an appropriate discovery phase through which they needed to go in order to make sure that what they were trying to implement and recommend for Bermuda would be well done.

So somehow it was okay for them to look at it and make the determination that they should go into the lion's den effectively to see what it is that was being created, and yet when our Minister, former Minister from constituency 31, and the Honourable Member from [constituency] 25, the former Attorney General, somehow when they went to have a look at the very same type of structure, there was something untoward about it. That is where the politics come in to this, Mr. Speaker. And I think that when we look at the [section] 187 to which Members have spoken tonight.

Have we been overzealous in the implementation of that 187 clause in the legislation? I would perhaps almost venture to say that maybe we have. But, Mr. Speaker, I think that if we had not you can be assured that we would have heard Members opposite saying, *Well, what about this, and how about these personal interests, and how about these conflicts.* So this is a situation where you are damned if you do and you are damned if you do not.

Mr. Speaker, I believe we can come with an effective resolution to that particular matter given, and I know that when the Minister speaks he will point out the requirements according to international legislations and requirements that caused that particular clause to be implemented. I think that we can *Onionise* our legislation to make it jurisdictional appropriate given the small size of our little Bermuda.

Mr. Speaker, let me just also say that the commissioners have a difficult job, and we respect the effort that they have put into the job that they have to do. Mr. Speaker, let me just say that as they consider the issuing of licences that they will have under their purview in order to be able to issue, yes, there is a situation with respect to the provisional licence that has been included in this legislation and that provisional licence, as Members opposite looked at it, effectively saying, you know, *why are you guys giving somebody a leg up?* We did hear very early on in the new hotel process that having a gaming licence was not a deal breaker for a particular organisation. As time went on, things changed, and I think when things change you have to be able to be sufficiently nimble to recognise and to understand and appreciate how situations can be altered in order to be able to make the kinds of commitments that are required in order for that primary responsibility that I mentioned at the very outset of work, work, work, jobs, jobs, jobs, how can we accommodate that. How can that be accommodated?

So, Mr. Speaker, we did hear an acknowledgement that when we had the lease drawn for a previous site in the same . . . I am sorry, for a previous operator on the same site, to which we are now refer-

ring, that they were offered a licence when there was no gaming legislation even coming down the pipeline. So if that did not seem on the face of it to be awkward, then I do not understand what would be.

The Honourable Member indicates, well at least they were transparent. Well, I see it a little differently. But the Member from [constituency] 6 indicated well why don't you give a licence to Morgan's Point? What about us? And he says that it in the one breath and in the very next breath he is saying stop inhibiting the ability of the commissioners to make their own decisions. So how can we on one hand say give one to this guy, but let them decide; give one to the other guy, but let them decide? Are we not suggesting that we are usurping the responsibilities and the authority of the commissioners by even making those recommendations and those suggestions?

Yes, we have the provisional licence included in this legislation. And, yes, the commissioners have a framework within which they must operate in order to make the determination as to how they will deal with the licences that they have to issue in the manner in which they will have to be issued. They would have to deal with the timing in which such licences may be issued, and all sorts of contributing factors that they would have to look at, Mr. Speaker. These are the things that they would have to deal with, and we trust them in order to do it.

The one thing we do not want to do is to start to hear how people are going to castigate them at the outset. You know, it is almost like . . . you know, I think that one of the Member's opposite indicated that there was a comment made that we have . . . or there was actually a comment in the press that was repeated tonight effectively saying that the politics in Bermuda had become so toxic that, notwithstanding that there may have been interest by outside investors, they had been turned off as a result of that level of toxicity. I think it is difficult to say, Mr. Speaker, that if you are walking into a cesspit you will not be able to come out smelling like roses. It is just not going to happen.

So, if that is the case, Mr. Speaker, we also have to be mindful as to . . . we can criticise. We can disagree. And I have said that from time immemorial. I have no difficulty with a difference of opinion. I have no difficulty with being held accountable for the things which we do. But when we do things in such a manner that we are so disagreeable, we have to stop and consider the impact of our words, not just on whether we like one another across the aisle, but how those words impact the country at large on the international scale.

That is something that we have failed to realise and to understand. So when we sit here and we start to continually undermine not just all that which the Government is attempting to do but just to undermine the individuals who have been put in place to carry out those responsibilities. I think we have to

have a second thought as to how we can elevate that discourse, Mr. Acting Speaker—

[Mr. Walton Brown, Acting Speaker, in the Chair]

Hon. Patricia J. Gordon-Pamplin: —to make sure that whatever comes out of it will enure for the better good of Bermuda.

We heard the Honourable Member who just took his seat before me indicate something that was very troubling in his comment. He said that the Government . . . I wrote it down . . . that the Government's political interests take precedence while the country's interests take a backseat. I had never heard of such nonsense in my life.

Mr. Acting Speaker, I think if you . . . I mean, you have been on the other side (maybe you have not been). You came to this Honourable House after, I think you came to this Honourable House in 2012.

The Acting Speaker: Yes, I came at a very onerous time.

Hon. Patricia J. Gordon-Pamplin: Yes, which you did. But other Members in this Honourable House have had the opportunity of sitting on this side of the aisle and having to drive a legislative agenda that serves to bode well for all of the people of Bermuda.

I do not know what makes them think that because they have moved to the other side of the aisle—maybe it is the sun shining in their eyes—but because they have moved over there, that somehow the principle of looking out for the better good of Bermuda has been lost. I do not think so.

I think that we, each one of us, work our fingers to the bone to make sure that we can find the right balance for that which we can do, that which we can implement, that which we can advance for the better good of our people. We want to see our people working. And I am so pleased to hear that but for a couple hiccups with this legislation . . . I am so pleased to hear that generally there is consensus and support.

The reason I say that because as we heard in one of the debates earlier in the absence of support it makes it far more difficult. Our people who might be hurting are standing by hoping that something is done that is positive for them so that they can have some benefit, that they can feed their families. And in the absence of us being able to create meaningful employment for them, and as my honourable colleague from [constituency] 30 indicated, we do not want to say that, you know, we are going to have a hotel and therefore we are going to create chambermaids. No. Or that we are going to have a casino and we are going to have waitresses. No. We want to know that we are able to spawn the managers and the top-level executives because we have the talent.

We have the talent and we need to stop overlooking that which we have, that which we possess, and how we can continue to empower the people that we have been put here to represent. We have to make sure that we hold hands on this. Yes, we differ politically. We may have different philosophies. But I cannot believe that there is anybody who does not want to see our country succeed.

I am not going to accept that premise. What I will do is to assume good intentions no matter what happens. And I know that when our Honourable Member indicated that she did not really care how long this legislation took as long as we made sure that the legislation was done well, I understand the striving for excellence. But I can tell you that, certainly as the Cabinet, we are tremendously frustrated that we have only reached this level, this stage, after this much time. And it is our intention to continue to push until this particular legislation has been crafted to the point of acceptability so that it can be accepted and passed in this Honourable House and that the benefits of the gaming industry and the provisional licences and the amenities that hotels are wanting to create for their particular properties are brought to fruition and that we see the greater benefit in Bermuda at large.

Thank you, Mr. Acting Speaker.

The Acting Speaker: Thank you, Honourable Member. Are there any other Honourable Members that would wish to speak to this Bill?

The Chair will recognise the Honourable Finance Minister.

Minister, you have the floor.

Hon. E. T. (Bob) Richards: Thank you, Mr. Acting Speaker, I will try my very best not to take up the half an hour.

But I have to remark on one or two things that have been said, and the first one I wanted to remark on is the comment by the Honourable Independent Member who said that when we first started out on this gaming thing it was like a voyage of discovery because we did not know much about it. We did not have much experience here. I think that is very true. And I think we have learned a lot over the period of time and we have made some missteps. Like a lot of things in life, you take, you know, one step forward and two steps backwards. But that is the nature of life.

I want to have my remarks mainly set on the issue of banking as it relates to casinos. When I was thinking about it, it reminded me of one of my favourite movies. Mr. Acting Speaker, I am a bit of a movie buff and I have lots of movies at home that I watch over and over and over again. One of them is a movie called *The Right Stuff*, which is about the space programme in the 1960s. And when they are talking about funding for the space programme they have a sort of unforgettable phrase and that phrase is: No

bucks, no Buck Rogers. Well, in this case, we have no banks, no casinos. As simple as that.

[Inaudible interjection]

Hon. E. T. (Bob) Richards: No banks, no casinos and that is because proceeds of gaming in Bermuda have to be cleared through US banks. There is no way around it.

You know, we are dollar jurisdiction and we just cannot clear that money without going through corresponding banks in the States. It is impossible. Even if, as one of my colleagues said earlier that he thought he could have a pop-up casino with a cashless casino. That would not matter. It still has to be cleared through the States. The credit cards have to be cleared through the States.

You cannot get around the USA when it comes to banking. The Iranians found that out to their chagrin. The USA sequestered \$100 billion of their money for 25 years because the USA owns the banking system in the world. They own it. All money has to flow through there eventually. So when we are looking at this problem of clearing, we have to understand that it is serious thing. You know, it is like Mohammad and the mountain. You know the mountain is not going to move so Mohammad has got to make a move for himself. All right? It is the same sort of thing.

I remember a few years ago I had been trying . . . and I made it no secret it in this House that I have been trying to get more banks into Bermuda. Obviously, without much success so far. But I recall meeting with some bankers in Toronto. I do not mind calling their name, it was Scotiabank, and we were telling them about, you know, how we had these plans to have a casino in Bermuda and how it could be so lucrative for them. And they told us that, yes, they do banking for casinos, particularly in the Bahamas, but the bank is for Atlantis. They said if Atlantis was not run by one of the big casino operators from, I think from Las Vegas, I think it is, if it was not run for one of them they would not touch the money. They would not touch it. Their prerequisite was that they would not do any banking for any casino that was not run by one of the, what is it, four or five banking houses in the States. So that was their rule.

So, you know, we could have wanted to have all kinds of casinos and all kinds of things all we wanted. But these guys had their rules. And there is good reason for that because, let us face it, Mr. Acting Speaker, the most famous way on planet Earth to launder money is through a casino. Everybody knows that. It is the most famous way. It is not the only way, but it is the most famous way to launder money.

Therefore, in a world that is preoccupied today with anti-money laundering . . . you can be sure that every bank is fixated with this anti-money laundering thing and particularly as it relates to dots on the map. I am going to get to that in a minute.

I have heard that there is a lot of conflict or a lot of talk here in the House this evening about conflicts of interest and how conflicts of interest in Bermuda have, perhaps, a different meaning than conflicts of interest, say, in the USA because, you know, we are all related and it is such a small place and all that sort of stuff. But, Mr. Acting Speaker, when it comes to conflict of interest in this matter as it relates to casinos, as it relates to banking, you can forget about Bermuda's notion of conflict of interest. Forget it! Whatever you think that our conflict of interest rules should be, or could be different from those stateside, you can forget it because they are the ones setting the rules, not us.

[Inaudible interjection]

Hon. E. T. (Bob) Richards: So if we do not measure up to their standards of conflict of interest, we can have our standards all we like. You know? We can love each other and say, *Yeah, you know, I am going to do business with my brother. It is okay.* We can do that all we like, but we are not going to any business in the States, particularly with casino money. We are just not going to get there!

The unfortunate thing, Mr. Acting Speaker, is that this is the most outrageous double standard that I can think of because we are talking about anti-money laundering here. Right? The Americans and the British have different anti-money laundering standards for themselves than they do for us. Any one of us, if we were American, could go to most places in the USA and open a bank account in 15, 20 minutes—tops! Same thing in any high street bank in London. No problem! Go in there and show a little bit of ID maybe, open up a bank account. You know how long it takes to open up a bank account in Bermuda? Weeks! Maybe months!

[Inaudible interjections]

Hon. E. T. (Bob) Richards: Months! Because of anti-money laundering rules and the rules that are set up for anti-money laundering are basically set upon us by these same countries that have lax anti-money laundering rules. So it is a double standard.

But, you know, it is not fair. It is an uneven playing field, and we can complain about it all we like. Those countries that have lax anti-money laundering standards, they are the ones that call us a "tax haven" and make up a majority. I can get up on a mountain-top and scream that Delaware is a tax haven, but it is not going to make any difference. I am not going to be able to hurt Delaware. But they can hurt us. So it is a double standard. It is not fair.

We get examined for . . . we have an examination coming up year after next in Bermuda, anti-money laundering standard. It is going to be as important as the Solvency II thing was for us. It is com-

ing up and we—the whole Island, not just banks—have to be compliant. If we fail that test, or we do not measure up to that standard, it is going to be a real problem for us as a jurisdiction. But the people they are going to send to measure us, cannot make the standards themselves. That is how outrageous this double standard is.

So we just have to understand that is an unlevel playing field. We just have to understand that in Bermuda if we set up a casino, our conflict of interest rules and practices are going to be looked at by these outsiders with X-ray vision—with X-ray vision, Mr. Acting Speaker. It is not going to just simple. We cannot write our own rules and we are going to be judged very harshly and with great scrutiny.

They have power over us whether we like it or not. So, you know, I sympathise with the Honourable Members who are complaining about this particular clause, but I think I . . . I do not want to steal my colleague's thunder. There is a waiver clause in there, I understand, and we will get into that when we get into Committee. I think that we just have to understand the game that we are in, the playing field that we are on, and that it is an unlevel playing field, and that we are a dot on the map. The guys who control this game are the most powerful economic power in the world. Those are the facts. And just like Muhammad, we are not going to be able to make the mountain move. Okay?

Now, I was interested and disappointed, just like my colleague, Minister Gordon-Pamplin, that the Member from constituency 29 decided he was going to mention the members of the [Gaming] Commission in the same breath as bribery. You know, that is not good for anybody. It reminds me of a book that I once read, Mr. Acting Speaker. The book was called *Don't Think of An Elephant!* Because if you tell somebody that they are not to think of an elephant, the first they think of is an elephant. So when he said, Well, you know, *I don't think anybody in the Commission is guilty of bribery*, it was just like saying, *Don't think of an elephant*. It is not right.

And you know what, Mr. Acting Speaker? It denigrates all of us because these same folks in the States who are looking at us with X-ray vision, they are looking at this Commission, they are looking at us, looking at the Government, looking at the legislation, looking in the newspaper about this comment with bribery and the Commission in the same sentence, they are going to say, *Hmm! Maybe we need to dig a little deeper*. Right?

[Inaudible interjection]

Hon. E. T. (Bob) Richards: And so, you know, it is not—

[Inaudible interjection]

Hon. E. T. (Bob) Richards: It is not good enough, Mr. Acting Speaker, to cast aspersions on an independent Commission in this way because it downgrades all of us in a situation where we do not have any cards to play. We do not have a casino. We do not have a bank that is going to bank a casino. And like I said, in the movie, *No bucks, no Buck Rogers*.

But, Mr. Acting Speaker, I do not think the banking situation, personally, is hopeless. First of all, we have to get our anti-money laundering and conflict of interest standards, and all the other things that are being brought to bear with these amendments today, we have to get those things up to standard. And then we have to go back to our banking friends in New York and say, *This is what we have done. Are you going to help us to get a correspondent relationship to help us bank casinos?*

And you know what, Mr. Acting Speaker? If that still does not work, we have to go to some of the big casino operators over there and say, *We want you in Bermuda and we want your bank to come with you*. We can do that. So, there are ways that we can get around this, but there is no way to get around this if we do not meet that standard. That is a prerequisite. We have to meet that standard.

So, at the end of the day, these standards are theirs and we have to meet their standards, not ours.

Thank you.

The Acting Speaker: Thank you, Honourable Minister.

Is there anyone else who wishes to speak to this Bill?

The Chair will recognise the Honourable Minister for Public Works.

Minister, you have the floor.

Hon. L. Craig Cannonier: Thank you, Mr. Acting Speaker. I will be brief (I was asked to be brief).

I just wanted to talk about the history of how we exactly got here. I am actually very thankful that we are here today, albeit many of us have said that it has taken some time. Bermudians tend to be a very conservative bunch. We tend to sometimes be very slow to decision-making. And this particular Bill here is evidence of that. That may not necessarily always be a bad thing. I recognise that everyone wants to ensure that we are as detailed as possible when it comes to such a controversial issue as gaming in Bermuda.

But I do recall right off the 2012 election we sat with a symposium of investors interested in the Island. These were hoteliers who had come to the Island. And I remember very clearly, with the Honourable Member, the former Tourism Minister, as we were in this meeting (and there were a few others of us as well in this particular meeting) wanting to hear exactly what it was that Bermuda needed to do to ensure that we could continue to look at potential investment in the Island, how could we maybe speed up

the process, because we had seen from history it was becoming laborious and long-winded to get investment in the Island and to close out a deal, to really close in on a deal and get it done and signed.

I recall we looked outside of the boardroom window (and these were individuals who I believe had come out of a recommendation also from the Innovation Group). And as we listened to them, they looked at the Island from this high room and they said, *What a gorgeous place to invest in*. And then they went down the list of the issues that Bermuda had. And I realised very quickly at that time that as a jurisdiction, Bermuda was completely out of touch with what the rest of the world was doing when it came to enticing and getting investment, in particular hoteliers who were interested in, potentially, gaming in the Island as well. We were completely out of touch with what was needed to get their investment here.

And there ensued this attitude of, *Okay, now that we understand more clearly what the investors are looking for*, because we, quite frankly, had not been speaking their language. And because we had not speaking their language, they were not hearing us and they were not listening to us. And we saw, historically, where we had pockets of opportunities but deals never closed out.

So the idea was to take a look at what Innovation had already put together. I can remember clearly the Honourable Member coming to me and saying, *Well, we've got this long 900-plus page document that the now-Opposition has put together, let's look at it*. And, of course, in my previous capacity I said, *Well, my goodness, if all of this work has been done, then let's get on with it*, and so pursued thereafter getting on with it, seeking out the opportunity of investment in the Island which also involved the potential of having a casino.

But it was felt at that time that we were getting very valuable information that would help us with what we needed to do to get that investment here, to get them to the table seriously talking to Bermuda, and to be able to learn their language to be able to understand what was needed. Out of that came this Commission, so that we would ensure that we were living up to what the rest of the world was doing and ensuring that we had a regulatory body that was in place that we would not be getting (as the Honourable Member, the Finance Minister, was just saying) ourselves into any issues with the rest of the world, in bribery and the likes.

So I was quite excited at the time. And I know that the Honourable Member from constituency 29, I know he likes . . . and sometimes we like a little scuffle on the floor. And it is quite interesting to watch sometimes, back and forth. But I also recognise that we all have a passion for wanting to get things done. And so sometimes we can be a bit thin-skinned on the floor here because people want to say things back and forth. But you know what? It is time for specula-

tion to go. All of us have been guilty of it and we need to put it aside.

So here we are today putting before this House of Assembly and Bermuda a Bill that makes sense. Now, I recognise that there are one or two clauses that people may have issues with, but at the end of the day, this is where we are today. And this is an exciting time, and I want to thank all of those involved. I want to thank even the Opposition for the Innovation Group that they hired who put that document together that helped really jump-start this whole thing. They gave us a foundation to begin to work off of.

I want to thank the Commission for its steadfastness and really for its hard hand as to what they were going to accept and not accept. I recognise also that they have three licences that they will be able to issue and people are saying, *Well, you know, as entrepreneurs . . .* I remember the Honourable Member from constituency 29 saying, *Well, why not just let anybody come in*. Well, that did not come out of the Innovation suggestion, and so we were following that Innovation suggestion very closely.

So, I understand where you are coming from. I am an entrepreneur at heart as well. Let the market decide where it needs to go. But we wanted to ensure that we were not encouraging folks to come here and then at the end of the day have a bit of a mess on our hands after the fact in opening it up and there were so many that no one was making any money, and hotels would again be empty. That is not where we want to be. I am sure that is not where the Commission would like for us to be. So we are all holding hands here trying to move forward to ensure that we put something that makes sense before the people of Bermuda and then we can get these things going.

Now, there is a bit of a banter going back and forth about, *Well, maybe we might be doing this for political reasons because an election is coming up*. We have been working on this since day one! So I do not accept that! And it is, you know, at the end of the day, I think that kind of shot is a bit of a cheap shot because they know that we have been working this from day one.

So the excitement amongst us is here! Yes, it has taken us a long time. Sometimes I rub my head and I say to myself, *Man, it just takes so long!* And maybe it is just us here in the House holding up the process. I do not know. It could easily be defended. But we are here today, Mr. Acting Speaker, and so the excitement about what is about to happen I think we all can really rally around.

Outside of all of some of the silly speculation going back and forth, I really have not heard (outside of that) where this Bill is a problem, except for maybe two clauses that have been mentioned. But most of the body of this is making sense. So we have got to thank everyone in the Commission for getting us to this point, to where we are today!

I recall the first time I went to a casino. My wife had said we were going to go up . . . and really it was about going to see some the Pequot ancestors, coming from St. David's at this particular casino.

[Inaudible interjection]

Hon. L. Craig Cannonier: Yes, suck-rock and a few of them up there. And you know, I got there and it was really interesting because as soon as we got there, I got out of the car that we were in and I saw this big bus there. And I looked at the bus, and then another one pulled up behind the bus, and lo and behold, I will not say the denominational name of the church, but it was a church group with two buses full of people!

[Laughter and inaudible interjections]

Hon. L. Craig Cannonier: Now, now! It was on a Saturday, so it could not have been them.

[Laughter]

Hon. L. Craig Cannonier: I was amazed at how super conservative we are here in Bermuda compared to our counterparts in the religious world who are gaming. I mean, you know . . . they got up and they were hitting up the slot machines. They were there!

So, our young people have been calling for something like this for some time now, looking for opportunities. We recognise also that they are the largest group who are unemployed in Bermuda. So we have got to get this thing going. Some of these young people are sharp! Even the ones on the street! I guarantee those guys could do the numbers. You know, you are sitting there at the . . . Honourable Member from [constituency] 29, you know you are sitting at a Black Jack table and they are counting those numbers quick! The dealer is counting the numbers and you are trying to keep up with the numbers and it is spitting them out! And some of these folks just about have a high school diploma.

So we have got a lot of people who could be making some good money in this industry. So what we need to do is get this thing on. We have been here for a long time today and I know most of us are tired. We want to get on with the clauses—

An Hon. Member: I am just getting warmed up.

Hon. L. Craig Cannonier: *Just getting warmed up!*

[Laughter]

Hon. L. Craig Cannonier: But we need to get this thing done. And we need to ensure that we keep the fire under the Commission to keep . . . let us get this thing done! Not the Commission getting under us! We

need to be pushing them and making whatever is needed available to them to get this thing done.

Now, I am going to go back to one of the issues that I believe many have spoken to very clearly in the House. A colleague was sitting here and, you know, has been wondering about this whole issue of government officials and the likes, and the conflict of interest, and how do we deal with this issue in the two years. And no one seemed to come up with any examples. But lo and behold, as the researching was going on from the US Department of Interior, the Departmental Ethics Office in the United States, they have here restrictions on post government employment. And what I found interesting, under it was this. "Two-Year Restriction."

Now, if anyone wants to write this down, 18 U.S.C. § 207(a)(2). "For matters under—

The Acting Speaker: Honourable Minister, you want to cite that source?

Hon. L. Craig Cannonier: Sure. This is coming from the US Department of Interior. If you look under US Department of Interior, you will see just under it where it says "Departmental Ethics Office." And then the title of it is, "[Restrictions on Post-Government Employment](#)." It says, "After you leave Federal service" . . . So it says: "Two-Year Restriction. [18 U.S.C. § 207(a)(2)]"

"For matters under your official responsibility during your last year of Government service, you are restricted for two years after you leave Government service from representing any non-Federal entity to any Federal department, agency, or court regarding those matters."

Now, I am not an attorney at all, not even close to it, and I am not trying to sway the conversation either way. But what I did want to do was bring to this Honourable House an example of a two-year leave that we see here. With the legal minds, it may not even apply here. I am not sure. But if you could take a look at it, it would be good for any of you in here, please take a look at this. It is under (and I will say it again) the US Department of Interior, and subtitled Departmental of Ethics Office.

So I recognise, I mean, I own my own business here in Bermuda. You all know that business, several service stations, and it is very difficult not to do business with a relative in Bermuda. It is incredibly hard. We are all related somewhere along the line. If you look close enough, you will probably find it. So I do understand the dilemma we are under, but that is an example that I did want to bring to the House this evening as to where it is being done in other jurisdictions.

But I will go back to (as I said I would not be long) where I started. And that is, I do believe, in spite of the fact that I recall very clearly in 2014 where the former Opposition Leader said that there will be no . . .

what did he say? *There will be no hotel development under the OBA Government.* Now, I get where we were at that time. I understand some of the dynamics that were going on at that time. But what I am saying is that that in no way has restricted this particular Government, and neither will we even allow such a statement to hold us back from getting to this point. This is not about cheap political points or winning an election or anything like this here. As I said before, this was started from the very beginning to get to this point. We are now culminating this, and within a term, we are just about there.

So I would encourage Members of the House to let us move forward. This is about hiring and getting our people back to work and those people affect every single one of us in this House. Every single one of us! I used to tell my kids all the time, *Don't come to me complaining about this person and that person, this and that.* And they would start complaining . . . *Because at the end of the day I can guarantee you, years down the road you'll probably be marrying that guy's daughter or son!*

[Laughter]

Hon. L. Craig Cannonier: That is what it is like in Bermuda. And Lord knows, after speaking in Bermuda, with our conservative nature, we certainly know how to hold on to a grudge!

An Hon. Member: Oh, yeah.

Hon. L. Craig Cannonier: So I am encouraging this Honourable House to let go of some of those grudges. This is really about the next generation coming along. This is really about empowering the people of Bermuda so that they can get back on their feet. This is all about our people.

We are not out of the woods yet. But this OBA Government will ensure it does everything possible, in spite of all of the speculative comments that go around, that we will continue to press on to do what is best for this Island and to ensure that our people get back on their feet.

Thank you very much.

The Acting Speaker: Thank you, Honourable Minister for your abbreviated contribution.

Is there anyone else who wishes to speak to this Bill?

The Chair will recognise the Honourable Opposition Leader.

Mr. Burt, you have the floor.

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

Mr. Acting Speaker, my comments this evening will be brief as it has been a long session and I know that Members want to get home. But the com-

ments from the Honourable Members from constituency 31 and constituency 25 are interesting. They are interesting, especially hearing the former Minister of Tourism state that the exclusions currently inside of the Bill were not there when he was the Minister of Tourism, although all the other amendments seem to be there.

Now, I would say that that is interesting. And I will accept the explanations that are being given by the (I guess I would say) Minister of Finance, and because in consultations that have been happening between our Shadow Ministers and the Minister responsible for this Bill. I will accept the reasons for it. But something does not exactly seem right. And to hear the passionate speech given by the Member from constituency 25, balancing the challenges of which he has to deal with on this piece of legislation, I think that the Government can do a little better.

I think that the Government can do a little better in making sure that when we come to this House to do important business such as this, the consultation is taking place in the community and also within their own caucus, because I think that is important. As we heard Members on the other side speak about how what happens here is important, it is important what is said here, it is also important what is said from Members on that side about how the Government goes about its decision making. So I think that that is something that should be a concern and I would hope that the Minister responsible takes it under advisement. I would hope that the Honourable Premier takes it under advisement as well.

[Hon. K. H. Randolph Horton, Speaker, in the Chair]

Hon. E. David Burt: But, Mr. Speaker, that is not the main point that I have to rise on today, because the main one is the other portion of this Bill which concerns me greatly. And that is the whole issue of the issuing of a provisional licence.

Now, we have heard on numerous occasions, as has been said, that Members of Parliament and the Government will not have anything to do with the issuing of licences. We have heard that time and time again. And the Gaming Commission was going to be given three licences with which to deal with. But all of a sudden now there is going to be four provisional licences, because after this passes today—and the Government has the votes—we are going to now have four. So we have gone from three to four.

And we are now going to be giving a developer the keys to something that everyone else wants—a gaming licence. And that is being done here. The question that I would ask is, What research has the Government done in order to make sure they see that this person is fit to get a gaming licence? What work and due diligence has been done to ensure that this decision will not come back to bite us?

We remember, Mr. Speaker, the talk about due diligence that came from that side of the House when we were dealing with guarantees for the Corporation of Hamilton. And we know what happened with the good promised due diligence in that aspect. So the question is, Mr. Speaker, what have they done? What is it that is so significant that the chairman of the Gaming Commission said if there is any political interference, he will resign? Yet, here we see the highest form of political interference by basically saying, *Here is something, Gaming Commission, that we have given you the power to do but we are just going to do it for you.*

And then we talk about this concept in finance of “moral hazard.” And the question is, What you do for one, when does it then mean that you have to do for the other? Because we know what is going to happen, Mr. Speaker. It is going to be very clear and simple. Future developers and possibly current developers will hold the proverbial gun to the Government’s head and they will say, *If you do not do what you did for them, we’re not going to put the shovels in the ground.* Because we know that is the exact case here.

As it has been said, Bermuda is a small place. And despite the wonderful words of confidence returning to the economy, which was stated in the Throne Speech, we know that the only reason why there has not been ground breaking up in the East End is because they do not have their casino licence. And the Government is bending over backwards to figure out a way—after saying that they are not going to get one—to give them some level of comfort, while saying, *Oh, we are not really giving it to you.*

This is just to keep them at the table, Mr. Speaker. We know that. We understand that. The fact is that it is not the right way. Because when you set up processes that are supposed to be followed, if you want to hold yourself up as a reputable jurisdiction, you then do not do the convenient thing for the political imperative of looking to get shovels in the ground for your election campaign.

An Hon. Members: Yes, yes.

Hon. E. David Burt: You do it the right way, Mr. Speaker. You do it the way that can stand up to the test of public scrutiny. You do it the way in which the law, which you wrote, was intended.

So we understand what is going on today, Mr. Speaker. We know what this is about. This is about keeping Desarrollos at the table. And we know that this is not the first time they have asked for something. This is probably about third or fourth. And we see amendments coming to the House. One was a provisional licence and some was designed sites. And then it was this and that and all the rest. What will they ask for next week, Mr. Speaker? Because, clearly, they can see that the Government will bend over to do whatever in order to follow through with their commit-

ment. And it is a noble goal, Mr. Speaker. I understand it. Because that is a development that we need.

The question that we have to ask while we are up here doing this today, is, What impact does this have going forward for future projects? What impact does it have insofar as the Government now having to dole out additional provisional licences? And knowing the stance [of] the Gaming Commission, now we are going from three to four. Are we then going to go to five when Morgan’s Point asks for it and says, *Guess what? We are going to stop doing this work until you give us a provisional licence.*

What happens if the Greens say, *Well, we are not going to do anything until you give us a provisional licence.* What happens then, Mr. Speaker?

I understand the Government’s conundrum. But to quote the Honourable Premier (and I may get the quote wrong because I am not as old as he is) but, *A bull in a hurry never made a calf.* And we need to make sure we get this right. We need to make sure we do it correctly, Mr. Speaker, because what we will do here today may sound good, but we do not know what will come tomorrow. And that is my fear in the granting of this provisional licence to the Desarrollos Group.

We have to think very carefully about what this means going forward. When are we going to tell them to put up or shut up? When will that time come? Are we going to continue to allow ourselves to get strung along, and along, continue changing legislation [and] continue changing legislation, continue moving this goalpost, continue moving that goalpost? Maybe next we will be up here giving them a guarantee.

[Inaudible interjections]

Hon. E. David Burt: So we come from the point of the money is in place, they are ready to go; they do not need a casino licence. Then it was designated sites. Now it is the actual grant from the Parliament of something that we have given to the independent Gaming Commission. What next?

Mr. Speaker, this Bill is certainly needed. We want the gaming industry to get off the ground, but it is certainly clear that this is a troubling development and it should concern all parties. It should concern the Gaming Commission. It should concern all of the developers. It should concern every Member in this House knowing the fact that when we set this precedent today every developer that wants to come to Bermuda is going to ask for exactly the same thing. And they would be well within their rights to demand it, and they know full well that the Government will grant it because they granted it for somebody else. And that is not the correct way to go.

I will end with the final point, Mr. Speaker. I would like to support the comments from the Member from constituency 31. Because if we have a whole bunch of billionaires that we are throwing a party for

next year, we may want to take a little bit more of their money. That is what happens in a casino. That is why they have all those big buildings in Vegas. That is why the Honourable Member from constituency 29 gets to stay for free.

[Laughter and inaudible interjections]

Hon. E. David Burt: But those are the facts, Mr. Speaker. The house always wins, Mr. Speaker. Well, if the Honourable Member from constituency 29 says that they treat winners too, then it is true.

The Speaker: He might say that.

[Laughter]

Hon. E. David Burt: That is true.

[Inaudible interjections and laughter]

Hon. E. David Burt: But while we are here discussing an integrated resort model, while we are here talking about what it is that we can do in order to make this work better and fit Bermuda, while we are involved in all those conversations, there are a lot of people in this country that the only thing they have seen from the America's Cup is being told to volunteer for a month.

When the Government is committing lots of money, in the order of \$70-some million, when we have underwritten loans for a nice place over in WEDCO to the tune of over \$30 million, it is a lot of money. Now, there may be some people who are employed at the ACBDA. There may be some people who are working. There may be some people who are having their houses rented. I know the people inside of real estate are doing well. Homeowners may do well as well. But the fact of the matter is what we must figure out how to do is how to expand that pie and see how much more money we can actually get inside of the economy.

So, I would hope that the Government would take under advice from their former Minister responsible for gaming, the former Minister of Tourism, the Honourable Member from constituency 31, and I would sincerely hope that they would consider somehow, somehow figuring out how a temporary casino can be set up for the America's Cup to provide real jobs, real employment and not a volunteer position. Because [taking on] a thousand volunteers is not going to help the people who are looking for work.

If we are about making sure that we want is right for the people of this country, then we may want to consider actually doing something that will give more of them an opportunity to take some of that billionaire's money and put it in their pocket.

Mr. Speaker, I close with that. And I would just say that I hope the Government has considered very

carefully what they are doing with granting this provisional licence because it is certainly going to set a precedent and one that will most likely bind not only the current Government, but the future Government and any future development projects that we will see.

Thank you, Mr. Speaker.

The Speaker: Thank you. Thank you, Honourable Member.

The Chair will now recognise the Honourable Premier.

Premier Dunkley, you have the floor.

Hon. Michael H. Dunkley: Thank you, Mr. Speaker.

I am always interested, and sometimes amused, to listen to debates in this House where I hear Members on the other side say, *We support the America's Cup, but . . . We support the Gaming Amendment Bill, but . . . We support this . . . but.* I am interested today to hear how the Honourable Member on the Opposition who is filling in for the Shadow Minister and started out the debate, while the Honourable Member said he welcomed the discussion and hopefully we can move it forward with some sanity (I think those were the words you used), and there has been general agreement with this Bill, I want to touch on three or four areas where there has been some pretty heavy debate for the last four and a half hours as we debated this Bill.

First off, let me thank colleagues for contributing to the debate. Whether I support some of their views or not, I think it is healthy to come here and have a good debate about it. But let me start out and recognise the chairman of the Gaming Commission, and the CEO of the Gaming Commission, and staff who are in the Chamber, and thank them for their work.

Now, I am going to take a little bit of difference with the colleague from constituency 31 who talked about experts. Well, we hired experts in the Gaming Commission to do the job, and clearly we need to listen to their advice, follow their advice, ask questions about their advice, discuss back and forth with them why this advice is appropriate, and find the best footprint to move forward. And I believe that the Gaming Commission has done exactly that. And it has been a tough road to slog because as we found in every jurisdiction throughout the world where gaming has become a reality, there is a lot to go from the concept stage to the implementation stage. And it is no different here in Bermuda.

I think we are a bit harsh on ourselves when we beat ourselves up incessantly about the process that has taken place here because I think we are here tonight in a good position to move forward where colleagues have generally given their support, albeit to a couple of clauses which I am sure we will debate in some detail when we get into Committee.

Let me start out my comments by saying the Casino Gaming Amendment Bill 2016 is the footprint now that we are going to move forward on with some positive action. And out of all of that, some of the questions that were asked tonight by the Opposition, we can answer.

There has been a lot of talk over the past couple of weeks about banking. Well, very clearly, I believe from information passed on to me by the experts in the Gaming Commission that for us to get banking privileges we need to make sure we have a proper footprint in place to deal with that. I believe this amendment, together with what we have done already, will allow us to get in that position. The Member from constituency 31 has talked about temporary licences. He and I have had conversations about temporary licences. Until we get this footprint in place, we would be remiss to take on anything else because we need to get banking permission and other things in place.

The Honourable Member, the Opposition Leader, who has now left the Chambers, put his support for temporary licences. But at the same time while he said it, he does not say how it will actually take place within the amendment that we have here, or anything that we have on the books. And I realise that when you are on the other side in the Opposition everything is easy because you can say it, move on, forget about it, come back to it again and trump it up. But in reality it is just not that easy. And so after tonight, I believe that we can move forward in a positive way.

I started out talking about banking because of the unfortunate story that was in the *Royal Gazette* late last week about banking and the difficulty in getting licences. Because if you read the body of the story, it differed from the headline of the story. Now, clearly, I think everybody involved in the casino gaming amendments is well aware that banking is going to be a challenge.

Mr. Speaker, this Bill is about jurisdictional issues, it is about reputational issues, and it is about Bermuda going forward in the best interest. And, Mr. Speaker, do I like it that the Deputy Premier and the Minister of Finance are running off to Brussels on a regular basis to defend, to promote Bermuda? No. But it is something that we have to do to protect our interest, to preserve our interest, to enhance our interest, enhance our reputation going forward.

Do I like it that Bermuda has to continually defend her reputation in London? In Washington? No. But it is something that we have to do and we have to continue to do.

Looking at it on a smaller scale, do I like it that small businesses and entrepreneurs in Bermuda when they go to the banks in Bermuda have to basically open up everything in their house to show that they are qualified to have a bank account? We were talking in the lunchroom, Mr. Speaker, about happens

when you go to the bank now. No. But that is what is happening all over the world if we want to do it. And we cannot change it. As the Finance Minister said, *We are not going to move that mountain*. So we have to move it forward in the best way.

Do I like it on a personal level where my own daughter tried to get a bank account in New York opened up and the bank would not even deal with her because of who her father was—a politically exposed person?

Do I like it that oversight compliance and regulations continue to grow every day and that NAMLC [National Anti-Money Laundering Committee] is working hard to make sure that the next time we have somebody come in and look at how we do things here we can meet up to the standards expected? No. But it is a fact of life and a fact that we have to deal with every single day.

And we could throw up our hands and say, *We are not doing it!* But where does that put us? Where does that put Bermuda? In every industry that we deal with, where does that stack us up? Because in spite of how we might talk across the floor about each other, Bermuda has a good reputation. But your reputation is only as good as yesterday and today. If you sully that reputation . . . It is like character. Once you lose character and integrity, you cannot get it back. So what we need to do is continue to protect it, enhance it, preserve it, talk about what we do. And this piece of legislation puts us in the position to deal with the oversight that is going to take place in this industry.

The gaming industry is one of the most highly scrutinised industries in this part of the world. And quite rightly so. Quite rightly so. And when colleagues talk about, *Show me how it applies in other jurisdictions*, we need to refer to places that we have to deal with on a regular basis, like the UK, like our biggest trading partner, the United States. We cannot slog away from that.

You know, there are a lot of drawbacks in being a Member of Parliament, and one of them is everything you do in a small jurisdiction is subject to public scrutiny. We have to learn how to deal with that in the most appropriate way.

So, when we look at this clause that everyone has talked about, clause [68, amending section] 187, specifically as it refers to Cabinet Ministers, what I have found interesting, Mr. Speaker, is through this debate tonight very few people have talked about the ability to get a waiver. Now, do I want to have extra oversight, extra regulations, extra guidelines that we have to go through? No. But it is appropriate if we are going to move Bermuda forward and have that sunshine shine on us and make sure that we can deal with it in a proper way.

And so as the honourable colleague from constituency 31 said, he does not question the veracity, he questions the timing. Well, perhaps the timing

issue goes back to the fact that as every week or month goes by the oversight is just even much more intense on people, and that is not going to change. What the Gaming Commission is trying to do, and what Cabinet has supported, and what we have debated in our caucus, we had this debate in our caucus, is the need to make sure that we can stand up to the test of public scrutiny. I think the way that this is drafted at the present time can do it because, although that clause in there calls for a cooling-off period for two years for Cabinet Ministers and other relevant officials, it does allow for the waiver.

So everyone in this House is going to be impacted. Yes. Dunkley's Dairy is going to have to get a waiver to sell milk because I sit in this place. I am in Cabinet. I do not have any problem with that. Are they going to complain at Dunkley's? Yes, because they are going to have to make an application. Have I talked to the Gaming Commission about making sure that the waiver process is followed in an appropriate timely manner? Of course that has to happen, because you cannot have more bureaucracy. So everyone is going to be subject to that.

But if we want to live in a jurisdiction where we can put our hand on our heart and say, you know, Mr. Speaker, we are proud of what we do and we can stand up to that transparency and accountability, these are the types of things that are going to be demanded all throughout the world. If we think we can get into gaming and slog some of these things off, and say, *Well, you know, it's a small jurisdiction. We really shouldn't worry about that because we are going to have conflicts.* It is not going to work. It is not going to work!

So, to honourable colleagues who say that perhaps we should look at amending those clauses in Committee, I caution against it because we cannot compromise. You cannot compromise on being a first-rate jurisdiction. You cannot compromise. I hear Honourable Members on that side will probably want to speak in Committee about it, and that is what they are entitled to. But it will be to our extreme disadvantage going forward. There is no doubt about it. When you are dealing with gaming and the oversight that is established and the banks and the challenges that they face, and the issues that they have had in the past, the fines they have taken, we need to make sure that we can walk with our head high and be comfortable that we are doing the right thing. So this is about reputational issues and jurisdictional issues. And while it is tough, it is something that I believe is appropriate.

Now, in regard to the provisional licence issue, as the Honourable Minister Gibbons, who opened this debate around six o'clock tonight with a very comprehensive brief . . . if you will allow me to refer, Mr. Speaker, to just one section of his brief where he talked about a provisional licence. I take disagreement with Honourable Members who say that this provisional licence is an advantage to one devel-

oper over another. Mr. Speaker, I could spin it around another way because politics quite often is both sides of the argument.

[Inaudible interjection]

Hon. Michael H. Dunkley: No, I said *politics are both sides of the argument.*

[Inaudible interjection]

Hon. Michael H. Dunkley: Well, you did not listen. You jumped right in.

But, Mr. Speaker, this developer is going to invest \$140 million, \$150 million, probably north of that by the time this development is finished. We crafted the legislation around it being a model for an integrated resort. This developer has come forward and met that plan which allows them to apply for a licence. That is not an advantage; that is a commitment that they have made.

And if you look, other developers are mentioned throughout the Island and all of those developers that were mentioned (I am not going to be specific about them), all had an opportunity to come to the table and talk about what they thought was appropriate to deal with their project moving forward. And one of them that has been mentioned . . . there was even a land swap for a sizeable acreage, three times the size of what they previously had. Government worked with them for a long period time. In fact, we even spent millions of dollars to clean up the area. Now, was that an advantage? That is an interesting debate that you could have.

I firmly am in support with our colleagues that this provisional licence is the way to go. Why, Mr. Speaker? Because clearly it was laid out in the brief that it is a three-step process. The provisional licence, and I quote from the Minister's brief, "A provisional licence is intended to provide a qualified level of comfort to an applicant to begin construction of an integrated resort or casino while simultaneously"—Mr. Speaker, I hope you can hear me—"undergoing the rigorous suitability tests together with other formalities of the application process." That clearly states out what has to happen here, Mr. Speaker.

Now, I know the Opposition will want to play politics with some of these things. But it is very clear that it is only a level of comfort that is being given here and there is still much more that has to take place if they are going to move forward on this.

We debated this for a long time with colleagues about what was the appropriate way to go. And no decision is easy when you are trying to move the country forward. But we are very comfortable with this decision. And we had the discussions with the Gaming Commission and the Gaming Commission was very clear that once they were formed under the watch of Minister Crockwell, when he was the Minister

of Tourism and Transport at that time, that they did not want to have their authority in every area fettered in any way. And we have to accept that that is the right way to go because if we want gaming to work, we need to make sure that that body has the ability to move forward without influence. So we have protected that at the same time.

I note that some Members on that side support, it appears will support, the provisional licence scheme. I am sure we will get to more of it in debate, but this Government is very comfortable with it. Would we be more comfortable giving less concessions to people in any development? Of course. But that is just a fact of life to move any development forward. There are a lot of discussions going back and forth and it is something that you have to continue to keep an open book on and decide where you are going to draw the line and how you are going to move forward.

We believe we have a good relationship with the developer. We believe we are moving in the right direction and we look for good things to happen in the East End of the Island once this development breaks ground. It has come a long way. There is a lot of work that has been done.

I want to take this opportunity to commend everyone involved for sticking to the wicket and making it happen. There is still a lot more work that has to be done as we move forward from here today. This Act, once it passes, sets a footprint, but there is still work that has to be done as far as regulations to take place. The Gaming Commission has a lot of work that they have to do. They have just started to scratch the surface and I know they are frustrated by the time it has taken. But if we get it right, that is the most important thing. And for this Government to get it right means we can move forward to make gaming come closer to reality, make the banking provisions come closer to reality, and protect and enhance the reputation that Bermuda has at this point in time and will grow.

So, Mr. Speaker, I hope I have answered some questions from colleagues. I look forward for the debate on every clause that takes place. I appreciate Honourable Members on the other side being forthright and forceful with their conversations, but we feel strong on where we stand that this is in the best interest of all of Bermuda.

Thank you, Mr. Speaker.

The Speaker: Thank you, Premier.

The Chair will now recognise the leader of the debate, the Minister for Economic Development, Dr. Gibbons.

The Hon. Dr. E. Grant Gibbons: Thank you, Mr. Speaker. I thank honourable colleagues on both sides for their contributions. I think it has been a good debate. I think we have certainly touched on some is-

ues. We still have got some work to do, obviously, in Committee.

I think a number of questions have been answered, some by the Premier, some by the Minister of Finance, so I am going to really try and just focus on a couple of things which came out very strongly in the course of the debate because we are getting close to 10:30 now and I think people are getting tired.

Let me start with this issue of the provisional licence. I do not think I heard any objections to the concept of provisional licence. And when you consider, as the Premier had and others have said, that really the purpose of this legislation, not just the Bill here but the Casino Gaming Act, is to essentially stimulate resort development and thereby sort of help rejuvenate our tourism product. I think the concept of going from where we were in the prior piece of legislation, the principal Act, the 2014 Act, to adding a middle step, is a very useful one. If you agree that what you are trying to do here really is perhaps support existing hotels or resort hotels, but really trying to push development, then the concept of having just one step in the beginning which is to be designated, and then having to wait (shall we say) two or three years while you are trying to build something and then at the very end finding out that you are really not there, having a sort of midpoint is not a bad thing in terms of providing some additional comfort.

But let me talk a little bit more about this provisional licence. I have had the benefit of talking to the Commission and trying to get an understanding of where they are coming from on it. The Honourable Member, the Leader of the Opposition, talked about having it be the keys to something. It is not just a licence and then you go on there to the vetting. I think it is important to understand that the way the Commission . . . and I am taking some licence here because they have to speak for themselves. But as I understand the way the Commission wished to proceed, is [that] they are going to have an RFP probably sometime early next year. In addition to this provisional licence, there are going to be others that are going to be looking to get a provisional licence.

The Commission gets, essentially, to handout up to three—and I think that is important, it is up to three. They obviously have the prerogative of not doing all three, or even giving out three licences eventually. I think that the important thing here is that, with respect to a provisional licence, it is not just a question of getting it. This was sort of [where] the penny drops for me. The provisional licence is going to have conditions attached to it. And there is going to be a fairly hefty fee as well.

So, one of the things that the Commission wants to do is to make sure that in addition to this provisional licence, which will have conditions, and other provisional licences, which will have conditions, and we have talked about some of them in the brief in terms of Bermudians being hired, in terms of anti-

money laundering, in terms of probably a slew of other things, these conditions have to be met in order to be even considered—in order to even be considered—to get a full licence. So just getting a provisional licence is not the end of the step. There are conditions that will need to be attached and those conditions could be quite onerous, in addition to the fee which I do not think has been discussed yet publicly, but I was surprised at how large that fee is.

There is a fair amount of work that needs to be in that provisional stage. It is not just handing somebody the keys to something. That intermediate step is going to be quite an onerous step before the Commission even gets into the issue for consideration for a final licence, which is this issue of vetting and making sure that everyone associated with the casino, the developers and beneficial owners and others, go through a fairly rigorous vetting stage. I think that piece is really important to understand.

Now, in the brief we used the term “qualified comfort” in terms of Desarrollos having a provisional licence. And as I said, it would have the kinds of conditions attached that others will as well, which will come out of the Commission’s deliberations (as I understand it) and the RFP process. I think the important thing here is that the Desarrollos and the St. George’s resort has been a particularly difficult issue over many, many years. I think that if anybody will understand the difficulty, and I will just call it, just sort of a geographical difficulty here, it would certainly be the Opposition. They laboured for some 14 or 15 years to try and get a resort essentially started up down there.

And it was not for lack of trying. If you go back before that, Mr. Speaker (and some people have touched on this), the original Holiday Inn was not entirely successful. It basically went into a Loew’s, which was not entirely successful. It then merged into a Club Med, which, as we all know, closed after a number of years. And even after that (I think that was about 1988 or 1989) there were a number of years when people were trying to get a resort, a hotel, set up in St. George’s.

So I think if there is a preference here at all, it is what I would call a geographical preference. I think all of us on both sides of the House, because we have all worked at this . . . I was in a former Government back in the early to mid-1990s, which was trying to get a resort hotel down there. The former Government laboured long and hard to try and get the Park Hyatt up and going. Whether or not they gave them the promise of a casino licence, I do not know, Mr. Speaker. It was mentioned on that side. So I think they understood very clearly the difficulty of getting this thing off the ground down there, and also the importance of it as well.

So I think in some respects, yes, it is some qualified comfort. But the conditions, the fee and all the rest of it, are very quickly going to put the St.

George’s resort on the same footing that others would have as well.

Some mention was made of the Morgan’s Point development. How come they are not a designated site? There is a very simple answer to that, Mr. Speaker. Their application to be a designated site is incomplete at this stage, as I understand it. So the only two, which we did earlier complete applications for designated site, which then puts them in a position for the provisional licence, are the Hamilton Fairmont Princess and, of course, the St. George’s Hotel Resort.

So I think it is important to say that there are additional complexities here. There are different, very onerous steps that need to be addressed with respect to this provisional licence. It is not just your home and all you need to do now is just make sure you are a nice guy and you will get a licence down the road. There are a number of issues which still need to be addressed there. And that speaks to the issue of credibility and reputation and the robust regulatory nature of this particular legislation, both the Bill and the legislation beforehand.

And I would like to think about it as essentially an evolution here. Some have said, *You are essentially rewriting the Bill*. The fact of the matter is that if you look at the Bill, there are quite a few changes to it. But the substance of the original Bill is still there. Yes, we have learned a few lessons. Yes, we now understand that we do not have either the deep pockets of Singapore or indeed the volume that Singapore has, or what I will call the culture of Singapore, which works in a very different way. And we need to be able to understand that we need to right-size this robust regulatory thing so that it works for Bermuda.

Let me speak a little bit to this issue of being able to bank casinos here. Now, the issue that we are looking at . . . and I am not sure everybody out there understands what a correspondent bank is. But a correspondent bank for most of Bermuda banks . . . HSBC does not need to have one because they are their own correspondent bank in the US and the UK and wherever else, but the other local banks—and I will declare that my family is involved in one of them—require to be able to clear US dollars, to be able to do anything from wire transfers to whatever, which involves the US banking system, require a US correspondent bank. And they need that because they do not operate in the United States. So they need essentially a partner bank there to be able to clear the funds, the credit cards and the money that is involved with providing services which go into and out of the United States.

So the issue is, and what we [saw] in the paper the other day is it is not so much a question of the local banks not wishing to bank the proceeds of gaming here in a resort or whatever else. It is the issue of the comfort of the correspondent banks. Just like Solvency II, where we had to assure the European Par-

liament and others there who looked at this issue that we were up to a certain standard, the correspondent banks in the United States are going to have to be able to convince their regulators—not us, they are going to have to convince their regulators—that the money that they take out of here is done under a robust enough regulatory framework so that their regulators will not say to them, *Sorry. You simply cannot touch that money because we do not have sufficient surety that the appropriate controls, anti-money laundering and everything else are in place.*

So it is not so much a question of local banks. It is a question of the fact that they absolutely are tied to these correspondent banks. And it is even larger than that, because if those correspondent banking relationships are lost, it shuts down a lot of other things that local banks do. So you are no longer going to be able to get a US draft here for any other purpose, because if the correspondent banking relationship is not working, then we have got a big problem here. And some Members, both on this side of the House and others, will understand in the last few years a number of institutions here have had some difficulty getting correspondent banking issues dealt with because Bermuda is small, because Bermuda is offshore. As my honourable colleague, Mr. Richards, said, *It's one thing if it's in the United States. It's another thing entirely if it's in Bermuda.* So it is an issue of these correspondent banks convincing their regulators.

Now, I am not sure whether anybody else has had experience with them or not. I have had experience with the New York Financial Services Department, from an insurance perspective. And I can tell you, they are difficult and they are fussy in terms of insurance stuff. They also regulate banks. And I am sure that they are going to be very concerned in this day and age that any bank that is a correspondent bank, whether Bank of New York, Wells Fargo, wherever the jurisdiction of this correspondent bank is, that they are very clear that that compliance is going to be a key issue.

And I am afraid it is a question of, we are just in a much larger world now than we used to be. And it is not just a question of what we want to do here. Unfortunately, we have to rise to the same standards that others do, as well.

So that is part of what we are dealing with. So, Mr. Speaker, that brings me to the famous [section] 187D. And I think one of the things . . . and my honourable colleague, the Premier, mentioned this. This provision, which is a cooling-off period requiring particularly Cabinet Ministers to wait for two years before they get involved in associations, is not an absolute requirement. And we will get into it more in Committee. My honourable colleague referred to it as a waiver; I might have earlier on. But what it says is you cannot have an association or you cannot provide services—and this is important, Mr. Speaker—without

the prior written consent of the Commission. So it is not saying you absolutely cannot do it. What it is saying is you cannot do it without the permission of the Commission.

And obviously, there are going to be different circumstances that will arise, and the Commission is going to have to look at that. Whether selling milk to a casino is something that will get essentially the consent of the Commission, whether selling insurance (and I will declare interest), or selling booze or something of that sort, or retail, you know, I think basically as a Cabinet Minister, I will be caught under that. But hopefully, the Commission will look at that and say, *Well, he's not doing it because he struck some deal with the Commission . . .* I am not even doing it myself. One of the companies that I may be associated with *hasn't struck a deal.* But we will have to see whether the Commission allows that or not.

My understanding—and the Commission is going to have to judge this as well—but when you actually look at this I think the only people who are really going to be caught in this House are Cabinet Ministers and a former Cabinet Minister. I do not think anybody else . . . and this is my personal opinion; it is not the Commission's opinion, I do not think anybody else is actually caught under this at all, because they are not involved at this point in actively . . . active involvement with a casino or licensing a casino or having been involved as a Cabinet Minister in making decisions with respect to tourism, which may have respect to legislation, things of that sort. My guess is that I suspect it is Cabinet and maybe a former Cabinet Minister who are going to be subject to the cooling-off period.

Now, why is this important? Why is this [section] 187D thing important? I have got here in my hand, Mr. Speaker, a printout. And this is from New Jersey. It is the State of New Jersey Ethics Commission. It basically sets out, pretty categorically, if you work at a casino in New Jersey or if you have been involved as the Governor, any member of the legislature, full-time member of the judiciary, any full-time professional employee of the Office of the Governor or the legislature, members of the Casino Reinvestment . . . All of these people, under New Jersey law, are caught under the New Jersey cooling-off period, or the departure from employment, having worked as a member of the legislature or whatever else. So, New Jersey is quite a bit broader than ours. It is a two-year period as well. It does have the ability to have an ethics commission look at it and make a decision, much like we have talked about with respect to the Commission here as well.

But the reason I mention this, Mr. Speaker, is because this is exactly the kind of robust regulation that has been in place for many, many years in New Jersey that a regulator in the United States is going to look at and say, *Does Bermuda have something similar in place that is going to give me comfort to allow this correspondent bank to receive essentially bank*

funds from a casino in Bermuda? And so that is why there is a connection between this section on corruption and conflict of interest and what we are talking about here in terms of [section] 187D. It is because we are part of this broader world. We have to rely on correspondent banks here. And we want to be able to move forward with having casinos be able to bank here.

So as my honourable colleague, Mr. Richards, said, I have not been in these discussions. I have certainly talked to the Commission about this. It is not that it is an absolute *they will not do it*; it is a question of, let us see what your regulatory framework looks like and then we will talk to you about doing the correspondent banking fees. But we have to be able to convince our regulators in the United States, whether it is New Jersey or the New York Financial Services Department or whatever, that Bermuda has a good system in place.

Now, I think Honourable Members have said on that side, *Well, what about Aruba? Or what about Bahamas? They don't necessarily have to do this.* And I am not quite sure what is there. But one of the things we are looking at, as my honourable colleague Mr. Richards said, is, with Atlantis, you have got a very large operator behind that with whom US correspondent banks and others have experienced in the United States. They understand the level to which they are compliant in other places. And I think those are the kinds of issues that are being considered.

With respect to Aruba, Mr. Speaker, as you will know, we are coming up against a CFATF [Caribbean Financial Action Task Force] check in 2018. I will just comment very briefly that the last neutral assessment that was done of Aruba said as follows (and I quote): "Aruba's system of anti-money laundering and counterterrorism financing and preventive measures is incomplete and lacks coherence and effectiveness. In other words, Aruba's system is subpar as far as the FATF is concerned. We have to be very wary of this as we come up through with an AMLC [Anti-Money Laundering Commission] procedure coming up to our own CFATF thing in 2018. So clearly, this is a hot spot for money laundering and for other issues. So we need to make sure we have a very robust regulatory system in place for that.

And those are some of the reasons why I think we are disadvantaging, to some degree, ourselves in respect to this issue of making sure that we have got this [section] 187D feature in place.

I think the other thing, and I will just end on this banking issue here . . . I think we all have to recognise, even though we tend to think of ourselves as the centre of the universe, the sort of Galilean system of the universe with Bermuda the centre, that our volumes here are not very large. In other words, when I speak about volumes, I am talking about the size of our casino business. It is not going to be as big as Atlantis, will certainly not be anywhere near New Jer-

sey or Nevada standards at all. So when a correspondent bank is looking at whether they want to do business here, they have to consider the additional compliance that will come in banking casino money.

And since our volumes are not very large, some of them are simply going to say, *It's not worth the trouble. It's not worth the additional cost of compliance and the other issues that I'm going to have to deal with to simply deal with Bermuda.* So that is why we have to be particularly careful in terms of the robust regulatory system we have put in place and why we have these provisions in here.

I think also, from a community perspective, we want to make sure that politicians are not seen to be taking advantage of their position. I think particularly of Cabinet Ministers. So there is an additional sort of moral imperative in here as well, Mr. Speaker. So those are some of the issues that I think we need to consider as we talk about, *Look. We can kind of do what we want here.* The fact of the matter is we really cannot anymore. Whether it is reinsurance or fund management or whatever else, we are very dependent on a very interconnected system with regulators in other places. And we have to be able to convince them that we are doing not just a good job here; it has got to work for them as well. So those are some of the issues, Mr. Speaker, that I wanted just to touch on. I think those are my . . .

[Inaudible interjection]

The Hon. Dr. E. Grant Gibbons: My cousin over there says that that is enough.

So, Mr. Speaker, I think I have answered some of the questions. But we are going to get into Committee. We are going to have more debate about this. But those are the major points that I wanted to make. Thank you.

The Speaker: Thank you, Honourable Member.

I think you need to send it to Committee.

The Hon. Dr. E. Grant Gibbons: Thank you, Mr. Speaker. I ask that the Bill be committed.

The Speaker: It has been moved that the Bill be committed.

Any objections to that? There are none. So I would like to ask that the Deputy Speaker please take the Chair [of Committee].

House in Committee at 10:47 pm

[Mrs. Suzann Roberts-Holshouser, Deputy Speaker, in the Chair]

COMMITTEE ON BILL

CASINO GAMING AMENDMENT ACT 2016

The Chairman: Members, we are now in Committee of the whole for further consideration of the Bill entitled [Casino Gaming Amendment Act 2016](#).

I call on the Minister in charge to proceed. Minister, you have the floor.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chairman. Madam Chairman, I am going to try and break this down in a way which is sensible. We have 75 clauses here, and I also have two minor amendments at clause 18. So what I would like to do, Madam Chairman, is move clauses 1 through 17.

The Chairman: Are there any objections to the motion of moving 1 through 17?

No objections.

Please proceed.

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

Madam Chairman, clause 1 is self-explanatory.

Clause 2 amends section 2 [of the Act] to provide the following new definitions: *foreign casino regulatory body*; *general administrative documents*; *guidelines*; *immediate family members* and *information*. Existing definitions for *development agreement* and *special employee* are also being amended.

Clause 3 amends section 3 [of the Act] to enhance the Commission's powers with respect to vetting associates. These will include those exerting any influence over the operations of the casino, and in so doing, the Commission will be able to consider whether the associate has any interest, directly or indirectly, in the designated site or the integrated resort.

Clause 4 amends section 4A of the Act so as to clarify that fees are non-refundable.

Clause 5 inserts a new section 5A to provide for the revocation of designated site orders by the Minister in situations where a provisional casino licence is not granted or where such a licence is granted but is being cancelled, or where a full licence is not subsequently granted.

Clause 6 amends section 9 to provide the power for the Commission to determine applications for and to grant or refuse to grant provisional licences.

Clause 7 inserts a new section 14A to provide that an inspector is authorised to administer oaths and may require any information submitted to be provided on oath; or he may, instead of administering an oath, require the person examined to make and subscribe a declaration of the truth.

Clause 8 amends section 15 to increase the current powers of inspectors to obtain the personal details of persons suspected of committed offences under the Act. Where information supplied is believed to be false, a power to detain is exercisable only with reasonably necessary force, where the person de-

tained is informed of reasons for the detention and where the police are immediately informed of the detention.

Clause 9 amends section 16 to enable the Commission to seize equipment or articles relating to gaming for 30 days instead of the current 5. This power will be subject to extension or variation by the courts, which may also hear from persons interested in such items.

Clause 10 amends section 17 by substituting section 17(b) to read: "all fees and financial penalties paid under this Act," which removes the terms "composition sums and fines" as making up part of the funds and property of the Commission.

Clause 11 inserts a new section 17A to make provision for the Commission to borrow money, with the consent of the Minister and approval of the Minister of Finance, to provide the Commission with working capital or any other purpose for which capital monies are required or other purpose necessary under the Act.

Clause 12 inserts a new section 18A, which requires the authority to prepare to seek approval of its work plan and annual budget. This provision would involve the Minister of Finance throughout the process.

Clause 13 amends section 19 of the Act to delete the reference to composition sums and fines as being considered as part of the Commission's funds and property.

Clause 14 amends section 24 to provide the auditor with the power to obtain information and documentation directly related to the financial transactions of the Commission so as to protect confidential information.

Clause 15 amends section 28 to provide that the provisional licence being granted for the St. George's resort shall not be included in calculating the number of casino licences to be issued by the Commission.

Clause 16(1) repeals and replaces section 29, which will allow, in addition to the traditional physical gaming, the playing of eGaming within eGaming zones, and betting with a bookmaker within the premises of a casino. The Minister will also be able to make regulations which regulate eGaming and betting on casino premises, and can provide the specified system or method of communication is or is not a form of remote communication for eGaming, specifying an eGaming zone and prescribing the subject, races, competitions or other events, or processes, on which a bet may be placed. In this instance, remote communication would include wireless protocols between a server and a tablet.

Clause 16(1) also inserts new section 29A, which will allow for the sale and consumption of alcohol on casino premises. The Minister will be able to make regulations which regulate the sale of intoxicating liquor on casino premises. Consequent to these

new provisions, clause 16(2) inserts new definitions for the terms *authorised game*, *betting*, *eGaming*, *eGaming zone*, *gaming area* and *physical gaming*, and exempts casinos from provisions within Part VI of the Miscellaneous Taxes Act 1976 for the payment of betting duty, as earnings will now be subject to the Casino Gaming Tax.

Clause 17 amends section 32 to confirm that, by submitting an application for a casino licence, an applicant consents to any investigation undertaken pursuant to the Act. I will stop there, Madam Chairman.

The Chairman: Thank you.

Are there any Members who would like to speak to clauses 1 through 17?

Thank you. The Chair recognises the Member from constituency 17. You have the floor.

Mr. Walton Brown: Thank you, Madam Chairman.

The hour is late, and I was just was provoked to ask one question of the Honourable Minister.

Why would the Minister want to have powers regarding the distribution of alcohol that supersede the powers of the existing regulatory body?

The Chairman: Thank you.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chairman.

The reason is because having one regulator here for casinos (because we know casinos want to serve alcohol) makes it a lot simpler. And because the Commission is going to be involved in regulating other issues such as (and you will see in here) provisions for disturbance or exclusion orders, things of that sort, it makes much more sense to have it all under the Commission rather than having to have some connection with the Liquor Licence Act. There may be confidential information as well that is involved. There may be issues like that. So I think it is simply a simplicity thing, having it under one regulator.

The Chairman: Thank you.

Are there any Members who would like to speak to clauses 1 through 17?

The Chair recognises the Member from constituency 25.

Mr. Mark J. Pettingill: Thank you, Madam Chairman.

I am hoping the Minister can help me with this, the definitions of 2(c) a number of definitions that we added. Of course, we have section 187F that was added, we are going to come to that, dealing with an improper approach. I was wondering why there is no definition of "improper" contained in the definitions of the Act because if we wanted to under 187F, I guess if a bus driver walks up to some commissioner and

says, *Hey, sexy that's a great decision you made* he is going to be caught like that particular provision. So I am asking with regard to an improper approach or improper influence that hasn't happened yet. But where is that contained by way of definition in the approach element as to what is considered legally to be improper by the evidences and by the definition in that section?

The Chairman: Thank you, Member.

Mr. Mark J. Pettingill: Oh, my [microphone] was not on. Sorry.

A waste of a good point.

Did you hear me, Madam Chairman? I was just told my [microphone] was not on. I do not know if the Minister heard me.

The Chairman: Do you want to repeat it?

The Hon. Dr. E. Grant Gibbons: Yes, I heard you.

Mr. Mark J. Pettingill: Yes. Okay.

Some Hon. Members: Yes, we heard you.

The Hon. Dr. E. Grant Gibbons: Yes. Madam Chairman, I was trying to see if there was any particular technical aspect of it. My sense is it is pretty self-evident. In its own way, I think the Bribery Act probably has similar provisions in there as well. And I think it is basically if you are trying to solicit or whatever else. I think it is perhaps a little bit to be judged. But if you are trying to do something which—

An Hon. Member: Grant.

The Hon. Dr. E. Grant Gibbons: Yes. (Sorry.)

If you are trying to solicit or trying to get someone to do something which is clearly intended to be fraudulent or whatever else, then I think that is the point. But yes, it is not defined.

The Chairman: Thank you.

Are there any Members who would like to speak to clauses 1 through 17?

The Chair recognises the Member from constituency 31.

Mr. Shawn G. Crockwell: Thank you, Madam Chairman.

Madam Chairman, I would like to draw the Minister's attention to clause 5, in relation to the power of the Commission to revoke a designated site order. And you would note, Madam Chairman, that it is . . . Well, on the advice of the Commission, it is the Minister who will revoke after consultation with the Commissioner. And one of the reasons why the Minis-

ter can revoke is if a provisional licence is not granted under section 32A to the owner of the designated site.

Now, this is somewhat peculiar because this power of revocation did not exist when the Designated Site Act was passed. In fact, it did not exist when we approved the Designated Site Orders earlier today. So, you have a situation where someone was vetted for a designated site and paid a large fee for that designated site order, and now if they do not get a provisional licence, the Minister is obligated to revoke that designated site designation.

So my question is, is it going to be understood and somewhat contemporaneous that when you issue a designated site order or when the Commission recommends that this particular site be designated as a casino site, that they will have the intention to subsequently grant a provisional licence? Because without the provisional licence, the designated site is not valid, because it says here, if “a provisional casino licence is not granted . . . to the owner of a designated site” “The Minister shall revoke” that designated site order . . . unless I am reading it wrong. I see someone shaking their head.

But let me read it again. Clause 5A: “The Minister shall revoke, after consultation with the Commission, an order under section 4(1) where he is satisfied, after giving a designated site owner the opportunity to be heard, that—(a) a provisional casino licence is not granted under section 32A . . .”

So if the provisional licence is not granted, the designated site falls away, unless I am reading it wrong.

I would think that when you grant the designated site order, the Commission and the Minister must have in mind whether or not the applicant will be suitable for provisional licence, because it is going to be a process and a substantial fee that is going to be involved by that applicant. When they applied for a designated site, this was not even in law at the time. So now there is a risk that if, for example, Fairmont Hamilton now apply to get a provisional licence (and I would assume that they would get it), but if they applied to get a provisional licence and are unsuccessful, then they will lose their designated site position. So I am just wondering if they will sort of roll synonymous or contemporaneous when they are being considered.

The Chairman: Thank you, Member.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chairman.

I think I was quite clear when we did the two Designated Site Orders earlier on that if they did not get a provisional licence that they would lose the designation. It also says in [clause] 5(c), “a provisional casino licence is granted under section 32A, but the Commission refuses to grant a casino licence to the

provisional licensee” . . . In other words, if you do not get the final casino licence, you will lose your provisional licence as well. And there is a substantial fee involved with that as well, as I understand it. So . . .

The Chairman: Thank you.

Are there any Members who would like to speak to clauses 1 through 17?

The Chair recognises the Member from constituency 34.

Ms. Kim N. Wilson: Thank you, Madam Chairman.

I wonder if the Honourable Minister from constituency 22 can answer with respect to [clause] 16. Given the concerns that have been raised with respect to Bermuda’s compliance with international obligations for money laundering and terrorist financing. What, if any, degree of consultation took place with the National Anti-Money Laundering Committee with respect to the provisions of regulating eGaming?

The Chairman: Thank you, Member.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chairman.

As far as I am aware, there has been continuing conversations with the anti-money laundering group and NAMLC. So I do not see that as an issue.

I am just going to get some additional technical advice here.

The Chairman: Thank you.

Are there any Members who would like to speak to . . . We will wait, and I will recognise you.

[Pause]

The Chairman: Thank you. Continue, Minister.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chairman.

I was just advised that the Commission also sits on the NAMLC board. So I think there is, obviously, communication going back and forth, in addition to the consultation.

The Chairman: Thank you.

The Chair now recognises the Member from constituency 25.

Mr. Mark J. Pettingill: Thank you, Madam Chairman.

Can the Minister perhaps address [clause] 14, which sets out, for this purpose of this Act, an inspector is authorised to administer an oath. Act [and rules] dealing with commissioners for oath and affidavits and oaths and notaries 1972 and 1973 set out very clearly the individuals who are appointed as commissioners of oaths. And there is a specific list there in the

Schedule. So I have a concern that this particular clause saying that an inspector is authorised to now administer an oath causes a particular problem in relation to the Act (the other Act which I mentioned), which clearly sets out who is authorised to make an oath. In other words, you have to be a commissioner of oaths or fall into one of the categories in the Schedule of an authorised person to take an oath—a JP, all of us, and so on and so forth.

So an inspector, as it stands now, does not fall within that category of commissioner of oaths and affidavits.

The Chairman: Thank you, Member.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chairman. I think we will probably have to take that one under advisement.

No? I will check.

[Pause]

The Hon. Dr. E. Grant Gibbons: I am advised, Madam Chairman, that for the purposes of this Act, the inspector is authorised to do these things. So I think the Act in itself provides that authorisation.

The Chairman: Thank you.

Are there any Members who would like to speak to clauses 1 through 17?

The Chair recognises the Member from constituency 31.

Mr. Shawn G. Crockwell: Yes, thank you, Madam Chairman.

Just for my edification, I just want to be clear again on clause 5. So is it anticipated that there will be these levels of applications? So once a designated site is granted, the next phase has to be the application of a provisional licence? And then once that is granted, you move on to a substantive licence. So you cannot get a designated site and then just move on to a substantive licence? Okay.

Thank you, Madam Chairman.

The Chairman: Thank you.

Are there any Members who would like to speak to clauses 1 through 17?

Mr. Mark J. Pettingill: Yes, thank you, Madam Chairman.

The Chairman: The Chair recognises the Member from constituency 25.

Mr. Mark J. Pettingill: Yes. I am just raising the concern here because [clause] 8 gives the power of an inspector to effectively detain a person with no more

force used than is reasonably necessary. So I guess it is the intention of the Act to give powers of arrest to inspectors for breaching particular provisions of the Act. And if that is the case, how are they effectively dealing with giving that type of power?

I will give you an example. In other places like Nevada and so on and so forth, you will often find that inspectors are actually police officers who are designated with powers of law to use reasonable force and to arrest. So I know that is contained in the substantive Act. It says it here. But where, with regard to the provision of arrest, caution and so on and the like, are they being effectively designated in accordance with our law as police officers?

The Chairman: Yes. Thank you.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chairman.

My understanding is that this clause has been discussed thoroughly with the police commissioner. The Honourable Member would be aware that when we were originally looking at the Singapore model—we are now in what I will call a modified Singapore model—in Singapore, they had a lot more resources. They had police who were effectively in the casino. So they did not require this. My understanding of this, and that Honourable Member may have more experience than I have in this, is that you have got to be able . . . If you have got an event which occurs and you cannot detain the person, they may be out the door. And then there is no ability to be able to stop them or get evidence.

So effectively, what we are doing, with the permission and the thorough consent of police commissioner, is to give these inspectors what would be considered quasi-police powers in terms of detention, and that is the thing. So the point of it is here is that, since inspectors are likely to be around and the police are not all the time inside a casino, the idea was, to be effective and efficient here, they had to give them these additional powers. So I hope that answers the Honourable Member's question.

The Chairman: Thank you.

Are there any Members who would like to speak to clauses 1 through 17?

If not, Minister, if you would just move the clauses 1 through 17.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chairman.

I move clauses 1 through 17 as printed.

The Chairman: It has been moved that clauses 1 through 17 be approved as printed.

Are there any objections to that motion?

No objections.

Agreed to.

[Gavel]

[Motion carried: Clauses 1 through 17 passed.]

The Chairman: Minister, please proceed.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chairman.

I am going to move clause 18. And I have a couple of amendments that I would like to [present]. They are pretty close to typo errors, but we are going to do it properly in any case.

The Chairman: The Sergeant-at-Arms is right to your right. Thank you very much.

AMENDMENT TO CLAUSE 18

The Chairman: Everyone should be receiving two amendments for clause 18.

The Hon. Dr. E. Grant Gibbons: Madam Chairman, would you like me to go through the rest of the clause, or do you want to do the amendments first?

The Chairman: I would like to do the amendments first.

The Hon. Dr. E. Grant Gibbons: Okay.

The Chairman: Are there any objections to doing the amendments first before we go to the clause?

There are no objections.

Madam Opposition Whip, are we ready to start? Shall we start?

Ms. Lovitta F. Foggo: Yes.

The Chairman: Yes. Okay.
Minister, if you would proceed.

The Hon. Dr. E. Grant Gibbons: Sure. In clause 18, the first amendment I have got, in clause 18(1), in the new section 32A to be inserted into the principal Act, we are going to delete the quote "Inserts sections 32A and 32B" and substitute "Grant of a Provisional Licence." You will see there, if you are looking at page 11, that that "Inserts sections 32A and 32B" has been carried down to the next section, and it really should say, "Grant of a Provisional Licence" as the heading.

The Chairman: Thank you.

The Hon. Dr. E. Grant Gibbons: So in some respects, it is a bit of a typo.

The Chairman: Yes. Thank you.

Does anyone have any questions on the amendment? No questions.

Is everyone in agreement to that amendment?

Yes.

Minister, please proceed.

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

The second amendment is a little farther down in section 32A(4)(b) which currently reads, "(b) (b) specify such period." We want to delete the additional "(b)"—it just kind of slipped in there—to correctly read, "(b) specify such period." So get rid of the "(b)."

The Chairman: Thank you, Member.

Does anyone want to speak to that typographical change? No.

Is everyone in agreement on that typographical change?

Thank you. We will go back to the whole clause now so that we can discuss that.

The Hon. Dr. E. Grant Gibbons: Thank you. Thank you, Madam Chairman.

The Chairman: Member, before we do that, I am saying the House has agreed on the two amendments that we have to the clause 18. Thank you.

All agreed? Thank you.

[Gavel]

[Motion carried: Amendments to clause 18 passed.]

The Chairman: Please proceed with clause 18.

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

In clause 18(1), we are inserting new sections 32A and 32B to make provisions for the issue of provisional casino licences as part of the Commission's envisaged three-stage process for obtaining a casino licence. A provisional casino licence may only be granted in respect of a designated site for which the Commission has formed an opinion on the integrated resort. The Commission may subject a provisional licence to various conditions and may specify a time period for investigating the suitability of a casino licence applicant. If a provisional licence holder cannot satisfy the Commission as to suitability, then the Commission may cancel the provisional licence.

New section 32A also provides that a provisional casino licence is granted in the public interest to the developer of the site under the St. George's Resort Act 2015, and that licence is granted subject to all the provisions of the Act, regulations and any other licence conditions imposed by the Commission. That is important.

New section 32B provides that there shall be no more than three provisional casino licences enforced and valid at any one time. They are in addition

to the provisional licence issued to the developer of the St. George's Resort Act 2015 under new section 32A. So, there would be four if you include that one, and a maximum at any one time.

Consequent to these new provisions, clause 18(3) inserts a new definition for "provisional casino licence." Thank you, Madam Chairman.

The Chairman: Thank you.

Are there any Members who would like to speak to clause 18?

Thank you. The Chair recognises the Opposition Leader. You have the floor.

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

Madam Chairman, to be quick, I raised concerns in the general debate, and I am just asking if the Minister could tell us what type of vetting and/or due diligence has been done on the provisional licence which is being granted by the Parliament and not being granted by the body that is supposed to look and examine such items? We are already giving a licence to someone, and I want to know what due diligence was done in this regard.

The Chairman: Thank you, Member.

The Chair recognises the Member from constituency 15.

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

Just wish to follow on with the comments of the Member from constituency 18. I think one has to take some consideration of what has been said on this in that we have only just done the Designated Sites Order. So, one has to ask, if we are essentially doing a Designated Site Order, and then this clause has created the provisional licence, what actual vetting was done around that? Because presumably, the normal course of events would be the Designated Site Order would be given, and then there would be a time when there would be a process of review subject to their possibly getting their provisional licence. So that clearly was not done in this.

Well, the presumption is, Madam Chairman, that no such overview was done to provide the provisional licence, other than what has been done by the Government in the Act. So perhaps the Minister can give some clarity to us as to what oversight was done, since clearly this is a unique process that we have experienced today with the Designated Site Order and with the provisional licence being issued under this clause.

The Chairman: Thank you very much, Member.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: Yes, thank you. I take that as similar questions, in some respects.

Let me just step back to try and answer this in two parts. The first thing that I think we have to recognise here is that the substantial vetting is really done between the provisional licence stage and the final casino licence. So that, apparently, is the most involved, and that involves discussions with overseas regulators and regulatory bodies and the rest of it. It is a very involved process. So that is left to the very end in terms of the suitability criteria.

However, in order to be able to get their funding in the first place to be able to get through the BMA and through the original process to even be selected, there was a lot of vetting that was going on with respect to the particular group, the Desarrollos group. So suffice it to say that a fair amount of preliminary vetting was done, but that does not exempt them from the full Monty, as it were, when they have to go from the provisional licence stage to whether they get it or not, is a different issue. But to the final casino thing, there will be a complete and full vetting in terms of propriety, who they are associated with and all those kinds of issues that, obviously, we have to do to make sure that . . . And that is not just for them. It is for anybody who is going from a provisional licence to the casino licence.

But there has been a fair amount of vetting so far in terms of their selection in the first place, in terms of the BMA [Bermuda Monetary Authority], in terms of the financing they have gotten. So I think we are reasonably secure. But, obviously, we do not have at this point . . . The Government did not, but the Commission will have access under these MOUs to form regulatory bodies which may unearth something else. And that is the final step. I hope that helps.

The Chairman: Thank you.

Are there any Members who would like to speak to clause 18?

The Chair recognises the Member from constituency 29.

Hon. Zane J. S. De Silva: Thank you, Madam Chairman.

Minister, the developer is on record as stating that a casino licence is not a game changer. What has happened between that statement and today in that he is demanding this provisional licence?

The Chairman: Member, if you do not mind, while the general Casino Amendment Act, you are asking for something as to one action as to why they might have picked . . . I am not quite sure how the Minister is going to respond to that one. It is not part of clause 18.

Hon. Zane J. S. De Silva: It certainly is, Madam.

The Chairman: Then, please help me understand.

Hon. Zane J. S. De Silva: We are discussing that clause. I will start again.

Minister, the developer in which this provisional licence is going to be given is on record as stating that a casino licence is not a game changer. What has happened between that statement and now that you are bringing this change to the legislation?

The Chairman: Minister.

The Hon. Dr. E. Grant Gibbons: I think the simple answer is that I tried to address that in my comments at the end of the [Second Reading] debate. I think all of us want to make sure that particularly a St. George's resort is successful. It is pretty clear that in the change of operator for the hotel, not for the casino—the change of operator, there was a change in terms of how the developer actually looked at it. And I think the new operator . . . If you remember, if you go back a ways, you will remember that originally we were talking about a Ritz property, okay? And then they changed to a St. Regis property. And I think the operator, as far as I understand it, the St. Regis operator felt that, as an amenity, the casino part was more important than the previous one does. So it could be an issue of timing in terms of how the thing . . . yes.

So what we are looking at here is, as I said, we are quite concerned that particularly a resort in St. George's, which historically has been very difficult . . . You have experienced that, the former Government before, you experienced that. We are trying to, essentially, give them a little more comfort because what we really want them to do is to start to proceed to get on with the resort. So if they have got a little more comfort, we feel that that will assist.

The Chairman: Thank you.

The Chair recognises the Member from constituency 29.

Hon. Zane J. S. De Silva: Thank you, Madam Chairman.

So what you are saying is, Minister, with this new operator . . . with this new operator, what you are saying is that they have told the Government, they have told the Commission, they are telling the people of Bermuda that unless they get this provisional licence, then they are not going to operate in Bermuda, and therefore the show stops? The hotel does not go forward?

The Chairman: Thank you, Member.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: No, they have not said that.

The Chairman: Thank you.

Are there any Members who would like to speak to clause 18?

The Chair recognises the Member from constituency 21.

Mr. Rolfe Commissiong: Thank you, Madam Chairman.

To the Minister: During the general debate, I basically . . . I am in favour of the concept of provisional licence. My query remains, why was it necessary to, right off the bat, issue or seek to issue or seek to grant a provisional licence to the St. George's resort? You did mention something about the geographic considerations, the historical nature of that site being without any economic activity down there. Am I right? Although there are some who are saying that perhaps the real consideration was political geography in terms of election prospects. So again, why is it necessary to push this for the St. George's group, rather than just establishing the framework initially for the granting of provisional licences?

The Chairman: Thank you, Member.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: Madam Chairman, I am not sure if I can really add any more. I think I have talked about the historical issues. I think we have talked about wanting to make sure that this property is successful. Properties before this have been relatively unsuccessful over the years. And it goes back to the whole issue of what we are trying to do here with this legislation, which is resort development. And I think the Government is basically saying, if we can give this group a little more comfort, given the historical issues and given St. George's . . . And also, we do not want to be in a situation where the thing opens and then it closes. So if we can give them a little more assistance, that is where the Government is coming from on this. I am not sure what else I can say.

The Chairman: Thank you.

Are there any Members who would like to speak to clause 18?

The Chair recognises the Member from constituent 29.

Hon. Zane J. S. De Silva: Thank you, Madam Chairman.

Minister, my question, my next question is, the chairman of the Commission has stated publicly when he was appointed that if there is political interference, he would not take the job. Since, now that it is obviously been some interference by the Government to issue this provisional licence, has the chairman indicated to you that he is going to resign or not?

The Chairman: Thank you, Member.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: I am not sure, and I cannot speak for the chairman as to whether he would see it that way. But we have not had an indication, as I understand it, that the chairman is prepared to resign. And I think, obviously, as perhaps the Honourable Member, Mr. Crockwell, said earlier on, if the Commission was not in agreement, this Bill would not have come to the House.

The Chairman: Thank you.

Are there any Members who would like to speak to clause 18?

The Chair recognises the Member from constituency 29. Remember we are not speaking to the principles of the Bill, only its details.

Hon. Zane J. S. De Silva: Got you. Thank you, Madam Chairman.

Minister, you said earlier, and former Minister of Tourism Crockwell also said earlier, that if this Bill passes, and using Mr. Crockwell's words, if this Bill passes, he was told that things are going to happen. And he said he was going to keep an eye on you so that he can watch over that. So, in other words, I think what the Minister [*sic*] was saying is that if this Bill passes, then we expect to see—I took that to expect to see shovels in the ground. If I am reading the play correctly and this is correct, can you confirm that? And if so, do you have a timeline for it?

The Chairman: Member, I am going to remind you, it is again that general debate . . . We are talking about specifics. And again, in clause 18, we do not see that there is a time frame allocated. I am just pointing that out to you, as I have already pointed out to you. I am giving you leeway. The Minister stood to his feet to answer your question, or else I would have stopped. Thank you.

Minister.

The Hon. Dr. E. Grant Gibbons: Yes. The Honourable Member may remember in my brief for the House, I did talk about getting shovels in the ground. So, yes, I think that is clearly the next step. It is not my call as to when that happens. But I think the sooner we get this done and get on with it, the sooner that is going to happen. So that is the best I can do as the person who speaks for it in the House.

The Chairman: Thank you.

Are there any Members who would like to speak to clause 18?

The Chair recognises the Member from constituency 31.

Mr. Shawn G. Crockwell: Thank you, Madam Chairman.

Now to prolong the debate, I am somewhat pleased that we are here late so that my former employer knows what I used to go through for many years, Madam Chairman.

[*Laughter*]

Mr. Shawn G. Crockwell: But I am just curious. Now that the Government, well, now that this Parliament tonight will be granting a provisional licence to St. George's resort, or to Desarrollos, you mentioned, Minister, earlier that you are aware that the provisional licence fee is rather hefty. But I do not know if you actually said what that fee is going to be. So I am assuming that, as we are granting the licence, that that fee is going to be established relatively shortly, or that it has already been established, you know, in short order.

But my concern is the ultimate cost of obtaining the ultimate licence. I do not know if the Commission has yet determined what the cost of a casino licence will be. I know we have been trying to get the right balance. But will the cost of the ultimate licence be now offset by the fact that there is a significant cost for the designated site, and now clearly a cost for provisional licence? Is that being taken into consideration in terms of what the value of a casino licence will be? Just worrying about whether or not it is going to become prohibitive.

The Chairman: Thank you, Member.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: Yes. I cannot really speak to that. I have a sense that anybody who gets a provisional licence, including the one that the House would be granting here, will pay the provisional licence fee. That much I know. I also know that it is pretty hefty.

I do not know where the Commission is. They have not informed me, and they may not have come to a standing point in terms of what the overall cost will be. I think we have heard that the Commission wants to make this revenue-neutral for Government in the sense that the Commission will pay for itself through the fees. But apart from that, I cannot add any more. And I think the substantive Minister probably, or the Commission, will be speaking to this when they are ready.

The Chairman: Thank you.

Are there any Members who would like to speak to clause 18?

The Chair recognises the Member from constituency 29.

Hon. Zane J. S. De Silva: Thank you, Madam Chairman.

Minister, just following up from that, because you did say that several times tonight, that the licence will have a hefty fee. And I know that you take a lot of pride in saying that your OBA Government are very transparent, and it almost comes out with every sentence that you quote.

Certainly, in the light of transparency, you would want to tell the taxpayers of this country what this hefty fee is (because a hefty fee could be to Mrs. Smith, \$500, but, you know, a hefty fee to someone like yourself might be \$5 million). So we would really like to know what this hefty fee is. I think that the taxpayers have a right to know, especially since the Commission and the Chairman themselves have said that they will operate in the light of transparency. So I am hoping that you would let the taxpayers of this country know exactly what that fee is.

The Chairman: Thank you, Member.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: Yes, thank you.

This is not a question of transparency. This is a question, because I think that the fees will be tabled at the appropriate time, because it will be public knowledge as to what that fee is.

I think the Commission may not have come to an exact landing point in terms of what that is. My bad, perhaps, for suggesting it is a hefty fee. I sort of heard ranges. But I think it would be unfair of me, because it is not my decision as to what that is, to relay those. So maybe it is a hefty fee to you, as well, I suspect. So . . .

Hon. Zane J. S. De Silva: Well, of course.

The Chairman: Thank you.

Are there any Members who would like to speak to clause 18?

The Chair recognises the Member from constituency 21.

Mr. Rolfe Commissiong: Thank you, Madam Chairman.

Minister, are we maybe perhaps sending the wrong signal here? Is the Government acting at cross purposes after all? The Finance Minister said that it is very likely that the banking authorities in the US will be more prone to agree to service the Bermuda business . . . with a major player from Vegas or one of the major resorts. I heard him say that. Certainly, Desarrollos and/or the St. George's resort does not meet that threshold, I would think why would we see a mandate that they get a provisional licence at this stage of construction?

The Chairman: Thank you, Member.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: I had a little difficulty following the line of argument there. I talked about already why we are giving a provisional licence for Desarrollos. I am not sure; maybe I missed the point of it. So, yes.

The Chairman: Member, would you like to clarify further the question?

The Hon. Dr. E. Grant Gibbons: I am sorry. I am getting a little tired here. So I missed the construct, yes.

Mr. Rolfe Commissiong: Yes, I am as well.

The Finance Minister stated that we would stand a better chance of getting the New York, or the US banking entities on board if we were contracting or we had a major player in the industry, whether it is in Las Vegas or one of the other major centres, here doing business, as opposed to what can only be described as a small-time player in the form of Desarrollos and St. George's resort—no insult to them, I might add. So are we working at cross purposes here in terms of our more long-term interests by giving a provisional licence to this Desarrollos group?

The Chairman: Thank you.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: Yes, thank you, Madam Chairman.

I take the point. I think what we have to be careful about is that we are not talking about the casino operator here; we are talking about the hotel developer. So the casino operator could be very different than the hotel operator or indeed the developer. So that issue is still open. I do not know whether they have chosen a casino operator or not. But obviously, there are a lot of people out there who are experienced and who are credible.

The Chairman: Thank you.

Are there any Members who would like to speak to clause number 18?

The Chair recognises the Member from constituency number 29.

Hon. Zane J. S. De Silva: Thank you, Madam Chairman.

Minister, this clause, obviously, took a bit of legal intelligence, as did many of the amendments, I am sure. My question is that Ms. Arlene Brock, who was hired as a legal representative, quit after two months. Can you tell us why?

The Chairman: Again—

The Hon. Dr. E. Grant Gibbons: Madam Chair, I have absolutely no idea.

The Chairman: Member, we are still going outside the remit of the details of the Bill in front of us.

Are there any Members who would like to speak to clause 18?

The Chair recognises the Opposition Leader. You have the floor.

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

Madam Chairman, I asked the Honourable Minister in a question earlier what due diligence was done. He provided information on vetting by the BMA, et cetera. However, the Act itself speaks of specific things that are to be considered in the granting of a provisional licence. And I am trying to ascertain as to whether or not those items were done for this particular developer.

The Chairman: Thank you, Member.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: I think the Government feels that for the provisional licence with respect to the St. George's resort, that sufficient due diligence was done in terms of both their selection in the first place and, essentially, the financing that was involved with them. But again I repeat the same comment: The real vetting here is yet to be done. It is between the provisional licence stage with all the conditions associated with that and then the final casino. So I am not sure I can add any more to that.

The Chairman: Thank you.

Are there any Members who would like to speak to clause 18?

The Chair recognises the Opposition Leader.

Hon. E. David Burt: So, the Minister has time to confer with the actual substantive Minister to answer the question as to whether or not the items which were spelled out in the principal Act and that are supposed to be considered for the granting of a provisional licence under this new section, which we will be inserting, whether or not any of that was performed in respect of the Desarrollos group? Or is this just something that we just said, *Here you are. You can have it?*

The Chairman: Thank you, Member.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: Yes. I am not sure I can do anything but reiterate what I just said. The Government feels that with respect to provisional licence, that adequate work was done with respect to what I will call the preliminary vetting.

Now, again—and I guess it is getting late and I have to repeat this—the Commission will attach all sorts of conditions to that provisional licence which will have to be met by the provisional licensee, okay? So

there will be additional provisions in terms of what I will call sort of a basic vetting process that has gone on. The real vetting is going to occur post the provisional licence.

The Chairman: Thank you.

Are there any other Members who would like to speak to clause 18?

The Chair recognises from clause [sic] 29.

[Laughter]

The Chairman: I am sorry; from constituency 29.

Hon. Zane J. S. De Silva: That is okay, Madam Chairman. We got it. It has been a long day, but it is okay. It is all right.

Minister, when someone, as you know . . . if anyone applied for a licence, there is a fee of \$50,000.

[Inaudible interjection]

Hon. Zane J. S. De Silva: Yes, and obviously this is one of them.

This particular group, did they pay a \$50,000 fee?

The Chairman: Thank you, Member.

Minister.

The Hon. Dr. E. Grant Gibbons: Yes.

The Chairman: Are there any other Members who would like to speak to clause 18?

The Chair recognises the Member from constituency number 21.

Mr. Rolfe Commissiong: Thank you, Madam Chairman.

To the Minister again: Minister, are you in a position to say whether the Desarrollos group have given any indication that they are prepared to enter into discussions with any of the major players, as alluded to by the Finance Minister?

The Chairman: Thank you, Member.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: I am afraid that is above my pay grade. I am not aware.

The Chairman: Thank you.

Are there any other Members who would like to speak to clause 18? Any other Members who would like to speak to clause 18?

If there are no other Members who would like to speak to clause 18, I call on the Minister to move the clause.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chair. I move the clause 18 be approved as amended.

The Chairman: As printed.

The Hon. Dr. E. Grant Gibbons: No, no, as amended.

The Chairman: As amended, right.

The Hon. Dr. E. Grant Gibbons: Yes.

The Chairman: It has been moved that clause 18 be approved as amended.

Any objections to that motion?

No objections; agreed to.

[Gavel]

[Motion: Clause 18 passed as amended.]

The Chairman: Minister.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chairman. Let us see. I would like to suggest that clauses 19 through 33 be moved.

The Chairman: Thank you.

It has been suggested that clauses 18 to 33 be moved.

Any objections to that motion?

No objections; agreed to.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chair.

Clause 19 amends section 33 to remove reference to a "body or association." This is a house-keeping amendment, as "person" is already broadly defined in the Interpretation Act of 1951.

Clause 20 amends section 34(1) by clarifying that the opinion of the Commission made under that section relates to proposed casinos, with the emphasis being on *proposed*.

Clause 21 amends section 38 of the Act consequentially in connection with the introduction of a provisional casino licence regime. Following the Commission's suitability assessment of a provisional licence holder and in compliance with the conditions, it shall either grant or refuse to grant a casino licence. The Commission will not be required to give reasons for any refusal or for any conditions imposed or to provide details of information or of sources of such information considered as part of its determination.

Furthermore, the Commission shall not be liable for any financial outlay or other losses suffered by an applicant as a result of an application being refused or conditions being attached to a casino licence.

Clause 22 amends section 42 to allow the Commission to redefine the boundaries of the casino

within a designated site and to further define and re-define gaming areas and eGaming Zones with a casino, either of its own motion or on application by the casino operator. Boundary changes take effect when the Commission gives written notice thereof or on a later date specified in such notice.

Clause 23 replaces section 43 and provides that a casino licence is effective for a period of ten years unless renewed, cancelled, revoked or surrendered. It further provides that a licence shall become automatically revocable until the point when the Commission provides written notice confirming the casino licence shall not be revoked if the casino licence holder dies or becomes incapable due to mental or physical incapacity, becomes bankrupt, ceases to exist or goes into liquidation. In the event of a casino licence becoming revocable, the Commission is able to serve a notice of revocation and appoint a temporary manager. Where a licence is revoked, the Commission may reinstate the casino licence and the Minister may, by regulations, make further provision for the revocation of the licence.

Clause 24 amends section 44(2) to allow the transfer of a licence with the permission of the Commission and subject to suitability investigations, as required under sections 32 to 37 of the Act.

Clause 25 adds a new section 45(2) to enable the Minister, by order, to add to the forms of "disciplinary action."

Clause 26 amends section 46 to ensure that the casino operator can be subject to disciplinary action and be liable for any act, omission, neglect or default by any employee, servant or agent of the operator; and to enable the Minister to make an order to stipulate additional grounds for sanctions.

Clause 27 replaces section 48 and enables the Minister to make regulations to control disciplinary action against the casino operator, including the powers of the Commission, the procedure to be followed and for the hearing of an appeal against the decision of an inspector. The Minister may also regulate the establishment, conduct, procedure, fees and powers of a tribunal hearing and appeal.

Clause 28 amends section 51 to provide that the appeal process for any decision regarding the casino's operator's licence may be set out in regulations.

Clause 29(1) inserts a new section 52(a) to require casino operators to establish and maintain a compliance committee which is responsible for ensuring that the casino is operated in compliance with the Act, regulations and directions of the Commission, and which shall furnish the Commission with any required information.

The Commission may require any member of the compliance committee to attend before the Commission to answer questions or provide information. And the casino operator is at all times liable for the acts and omissions of the compliance committee. Failure by the compliance committee to comply with

the Act, regulations or guidelines of the Commission will result in disciplinary action and/or other sanctions, including the suspension or cancellation of the casino licence.

Consequent to these new provisions, clause 29(2) inserts a definition for *compliance committee* and specifies that the Minister may make regulations in relation to the establishment, functions, obligations and all other matters regarding a compliance committee.

Clause 30 amends section 53 by removing the Minister's power to direct the Commission to investigate the casino. It also clarifies in relation to an investigation of a person having a business association with the casino operator and that the term *person* includes a body or association. New sections (2A), (2B) and (2C) are inserted to revise that an investigation may include members, shareholders, directors and officers, and all other persons related to the entity, and the casino shall pay to the Commission all expenses of the investigation.

Clause 31 amends section 58 to remove reference to "body or association." This is a housekeeping amendment, as "person" is already broadly defined in the Interpretation Act of 1951.

Clause 32 repeals and replaces section 59 to provide definitions for the terms "control contract" and "notifiable contract" and to empower the Minister to make regulations governing general or specific classes or types of contracts.

Clause 33 inserts a new section 60 to provide that no compensation for economic loss shall be payable by the Commission in respect of any refusal of the Commission to enter into or vary a contract whether or not such contract is terminated as a result.

Thank you, Madam Chairman.

The Chairman: Thank you very much.

Are there any Members who would like to speak to clauses 19 through 33?

There are no Members who would like to speak to clauses 19 through 33?

Minister.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chair.

I move that clauses 19 through 33 be approved as printed.

The Chairman: It have been moved that clauses 19 through 33 be approved as printed.

Any objections to that motion?

No objections; agreed to.

[Gavel]

[Motion: Clauses 19 through 33 passed.]

The Chairman: Please proceed.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chair.

I would like to propose that we move clauses 34 through 50.

The Chairman: Are there any objections to move clauses 34 through 50?

No objections; please proceed.

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

Clause 34 repeals and replaces section 66 to empower the Minister to make regulations prescribing functions to be performed by a licensee and persons who are required to be licensed. The Minister may also make provisions for the different categories and obligations of special employee licenses and for disciplinary action against the licensee.

Clause 35 amends section 67 by widening the scope of documents to be provided by operators to the Commission and that a special employee licence shall not be granted to a person who is under the age of 18 or persons prescribed as being ineligible to hold such a licence.

Clause 36 amends section 75 to provide further control to the Commission over the length of special employee license from five years to "such period as may be determined by the Commission."

Clause 37 amends section 78 to empower the Minister to make an order to add other forms of disciplinary action.

Clause 38 amends section 79 to allow for additional grounds for disciplinary action to be added by an order made by the Minister.

Clause 39 amends section 80 to give the Minister the power to make regulations prescribing any procedures and the powers to the Commission as regards disciplinary action against a licensee and for the hearing of an appeal by a tribunal.

Clause 40 amends section 81 to empower the Minister to make an order to provide additional penalties.

Clause 41 amends section 82 so that the Commission can suspend a licence in the public interest pending the conclusion of any inquiry or disciplinary proceedings in the specified instances.

Clause 42 repeals and replaces section 89 so as to provide that the Minister may, by regulation, prescribe the process by which a special employee may appeal a decision regarding his special employee licence.

Clause 43 replaces section 90 to provide the casino operator must ensure that the layout of the casino complies with the prescribed requirements.

Clause 44 amends section 91 to streamline the process for authorising games so that the Commission can, by general notice, approve games and for a class of games to be automatically included in

the list of approved games if approved by a specified foreign casino regulatory body.

Clause 45 repeals section 96 of the Act, which prohibited simulated games.

Clause 46 amends section 97 to correct an error in the original wording as regards the installation of linked jackpots, which provision does not apply to jackpots linked exclusively within an individual casino, and to ensure that only the casino operator can be liable to disciplinary action if the provision is contravened.

Clause 47 amends section 100 to clarify that in relation to accepting wagers and providing credit, that any casino operator or any licensed special employee who contravenes these provisions shall be liable to disciplinary action.

Cause 48 amends section 101 to clarify that ATM's are prohibited from all gaming areas.

Clause 49(1) amends section 102 to streamline the process for the licensing of junket operators by providing that the Minister may, by regulations, require a person or class of persons involved in a casino marketing arrangement to be licensed. The Minister may prescribe the procedure and fees for such a licence and regulate the marketing arrangements, conduct a person's licence and disciplinary actions against them.

Consequent to these amendments, clause 49(2) amends the definition of *casino marketing arrangement* in section 2 of the Act and deletes the definitions of *international marketing agent*, *international marketing agent licence*, *international marketing agent representative* and *international marketing representative licence*. Sections 103 and 104 are repealed, and further consequential amendments are made to sections 14, 100, 119 and 121.

I was going to do clause 50, was I not?

The Chairman: Yes, you were.

The Hon. Dr. E. Grant Gibbons: Clause 50 amends section 105 to provide that the minimum threshold dollar amount in dispute must not be less than \$500 before a complaint is referred to the Commission.

The Chairman: Thank you.

Are there any Members who would like to speak to clauses 34 through 50?

There are no Members.

Minister.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chair.

I move that clauses 34 through 50 be approved as printed.

The Chairman: It has been moved that clauses 34 through 50 be approved as printed.

Any objections to that motion?

No objections; agreed to.

[Gavel]

[Motion: Clauses 34 through 50 passed.]

The Chairman: Please proceed.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chair.

I would like to move clauses 51 through 67.

The Chairman: Are there any objections to moving clauses 51 to 67?

No objections; please proceed.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chair.

Clause 51(1) inserts a new section 111A to provide that the Minister can make regulations governing the procedure for making, varying and revoking exclusion orders relating to the whole or any part of the casino premises. It also provides that a self-exclusion order shall not apply in the event that the excluded person is required to be on the casino premises as a result of his employment.

Sections 112 to 118 are repealed and replaced to provide that a self-exclusion order can be made upon the voluntary written request by a person, and that the casino operator must notify the Commission. The self-excluded person can apply to the Commission for the revocation or variation of the self-exclusion order.

Further provision is made for the Commission or casino operator to make a compulsory exclusion order if there are reasonable grounds for believing the person is affecting or is likely to affect the orderly functioning of the casino or appears to be cheating or attempting to cheat, or that the making of the order is appropriate in the circumstances. Where the order is made by the casino, the operator must effect personal service on the excluded person and notify the Commission. That order shall apply only to the premises of the casino operator. Where the order is made by the Commission, it shall apply to all casinos in Bermuda.

An appeal against a compulsory exclusion order may be made by the excluded person, or the Commission may do so on its own volition. An exclusion order remains in force in respect of a person until it is revoked by the Commission and shall have a minimum duration of not less than 30 days, during which time the excluded person can apply for variation or revocation only if there has been a material change in circumstances since the making of the order.

The casino operator shall at all times maintain a list of those persons subject to an exclusion order and records containing the particulars of exclusion orders. An excluded person shall not enter or remain or take part in any gaming on any casino premises,

and any person subject to a compulsory exclusion order who contravenes the order commits an offence. The Minister may make regulations prescribing further obligations on a casino operator in relation to excluded persons.

Clause 51(2) provides that . . .

[Pause]

The Hon. Dr. E. Grant Gibbons: I hope this is water.

[Laughter]

An Hon. Member: That is not water.

The Hon. Dr. E. Grant Gibbons: Yes. Thank you for that thought.

Clause 51(2) provides, in consequence of the amendments made by clause 51(1), section 150 is amended, and section 2 of the Act is amended by replacing the definition of *exclusion order* and inserting new definitions for the terms *compulsory exclusion order*, *family exclusion order* and *self-exclusion order*.

Clause 52 amends section 120 to ensure that the winnings of an excluded person are paid to the Commission for use in problem gaming and by inserting new sections 120(9) and 120(10), which provide that winnings from a linked jackpot must be returned to the casino operator, who must comply with directions given by the Commission. The Commission must ensure that all funds received are used to support the functions of the Problem Gaming Advisory Council.

Clause 53 amends section 121 by adding new provisions requiring a casino operator to take steps to prevent any behaviour likely to amount to a serious offence or to bring the casino or the Commissioner of Bermuda into disrepute.

Clause 54 inserts a new section 121A to empower the Commission to give directions prohibiting a casino employee, a class of casino employees and the immediate family of a casino employee from gaming or betting at the casino where the casino employee is employed. An employee or immediate family member who contravenes this provision or the Commission's directions commits an offence.

Clause 55 amends various sections of the Act relating to minors, including sections 123 and 124, which clarify that minors may not enter or remain in a gaming area and a casino operator must remove any minors from the gaming areas. The casino operator must refuse a person who appears to be a minor entry to a gaming area unless identification is shown, and an operator or employee who breaches this requirement is subject to disciplinary action. Sections 125, 126, 127 and 128 are amended to provide that any person suspected of being a minor in a gaming area must be required to produce evidence of his age, name and address, and where a minor uses false

identification in a gaming area, he commits an offence.

Clause 56 amends section 134 by inserting a new paragraph (c) to strengthen the powers of the Commission to require casino operators to provide statements, documents, information or schedules.

Clause 57 repeals and replaces section 140 to provide that a casino operator shall deliver to the Commission a casino tax. And the amount of casino tax payable shall be such percentage of the gross gaming revenue for the month as prescribed in the regulations.

Clause 58 repeals and replaces section 143 to make provision for a general reserve for which the Minister, with the approval of the Minister of Finance, may make regulations governing the payment and collection of casino taxes, establishing a general reserve, prescribing the permitted transactions, time and manner of those transactions and transactions involving the Consolidated Fund.

Clause 59 amends section 144 to provide that the regulations made under that section are to be made with the approval of the Minister of Finance.

Clause 60 amends section 147 by establishing that the Director of Problem and Responsible Gaming is to be employed by the Commission, who shall be responsible for problem and responsible gaming. It also provides that the council be funded by the Commission and for the Minister to make regulations relating to the funding of the council.

Clause 60(2) makes consequential amendments in section 146 by inserting a definition of *director* and by amending section 148.

Clause 61 amends section 148 by creating an additional function of the Problem Gaming Council, which is to advise the Commission on matters relating to problem and responsible gaming.

Clause 62 amends section 158(2) by reducing the time within which such a provisional exclusion order shall cease to have effect, from the 28th day after the date it was made and to the 10th day after the date it was made, and deleting "or such later date as the Committee may determine in any particular case."

Clause 63 amends section 161 by deleting 161(1) to limit the powers of the council, who can confirm, vary, revoke certain family exclusion orders and set out the circumstances where this can be done.

Clause 64 amends section 163 to provide for the council to keep a list of family exclusion orders, and it removes the power of the council to obtain information from casino operators. The amendment also ensures that proceedings within the council are dealt with swiftly and within 10 days of the removal.

Clause 65 substitutes section 166 to regulate advertising and promotional activities related to casino gaming in Bermuda by providing that no person can carry out advertising or promotional activities relating to a casino or gaming unless that activity is in accordance with any regulations, Commission codes, guid-

ance or directions, under liability of a fine not exceeding \$50,000.

Clause 66 repeals section 171 of the Act, which currently prohibits chips from being taken from a casino.

Clause 67 amends section 185 by substituting 185(1) to add a power for the Commission to require the holder of any licence or approval to furnish the Commission a performance bond deposited or some other form of security of such amount as the Commission may determine for the purpose of any financial penalty arising out of any disciplinary proceedings or to defray the cost of any investigation.

Thank you, Madam Chair.

The Chairman: Thank you.

Are there any Members who would like to speak to clauses 51 through 67?

The Chair recognises the Member from constituency number 15.

Mr. Walter H. Roban: I have one very brief question on clause 60 as it relates to the Problem Gaming component that will be set up. Is it the ultimate plan that this component will be funded by revenue that is raised by the Gaming Commission through its licensing process rather than Government sort of funding? Is that a model that has been followed in other jurisdictions?

The Chairman: Thank you, Member.

The Chair recognises the Minister.

The Hon. Dr. E. Grant Gibbons: Yes, thank you, Madam Chairman, and I thank the Member.

The answer is yes. It will be funded by the Commission.

The Chairman: Thank you very much.

Are there any Members who would like to speak to clauses 51 through 67?

No. Minister.

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chairman.

I would now like to move clauses 68 through 70 . . .

The Chairman: We are just going to move clauses 51 through 67.

The Hon. Dr. E. Grant Gibbons: Oh, I am sorry. Yes, of course.

I move that clauses 51 through 67 be approved as printed.

The Chairman: It has been moved that clauses 51 through 67 be approved as printed.

Any objections to that motion?

No objections; agreed to.

[Gavel]

[Motion: Clauses 51 through 67 passed.]

The Hon. Dr. E. Grant Gibbons: Thank you, Madam Chair.

I would like to move the rest of the clauses, which is 68 through 75.

The Chairman: It has been moved that clauses 68 to 75 be moved.

Any objections to that motion?

No objections; please proceed.

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

Clause 68 inserts a new Part 13A comprising new sections 187A to 187K to include in the Act anti-corruption and anti-bribery provisions.

Section 187A provides a definition for the term “relevant official,” and that any reference to an applicant for a licence includes any entity that would, or is likely to, require a licence.

Section 187B makes it an offence for any person to improperly give or provide, or offer to give or provide, any compensation or award or a percentage or share of the money or property played or received, through gaming, eGaming, or bookmaking, to any relevant official or his immediate family in consideration for obtaining or assisting in obtaining a licence or approval under the Act.

Section 187C makes it an offence for any applicant for, or holder of, a licence or any affiliate thereof to offer or deliver to a relevant official or his immediate family any complementary services or discount not offered to members of the general public in like circumstances.

Section 187D makes it an offence for any relevant official or the immediate family of an official during the period in which he holds office, and for two years from the date when he ceases, without prior written Commission consent—and that is important, without prior written Commission consent—to (a) hold any interest in any licensed entity or its affiliate; or (b) solicit or accept any complementary service from an applicant or affiliate not offered to members of the general public in like circumstances; or (c) provide any goods or services to an applicant other than in the ordinary course of his duties as a relevant official.

Section 187E provides that the Commission shall publish guidance, setting out how it will make its decision to issue its written consent under section 187D, and for the Commission to publish revisions to its guidance documents. This section also provides that a court shall consider whether the organisation followed any relevant guidance documents and that the Statutory Instruments Act shall not apply to those documents.

Section 187F makes it an offence for a Member or the Legislature or a public officer or any person carrying out any function of a public nature, or the immediate family of any of those, to improperly approach or to seek in way to improperly influence a commissioner or an employee of the Commission as regards any decision of the Commission.

Section 187G provides that summary proceedings for an offence under this Act shall be brought within three years of the commission of the offence; and 187H provides that a person guilty of an offence under this part is liable on summary conviction to a fine not exceeding \$500,000 or to imprisonment for a term of 10 years, or to both, or on conviction on indictment to an unlimited fine or to imprisonment for a term of 15 years, or both.

Section 187I provides that this provision shall apply in addition to any other corruption and bribery provision.

Section 187J provides that when a person is convicted of a corruption offence, the court may make a forfeiture order. And under section 187K, the court may make a confiscation order.

Clause 69 replaces section 189 and stipulates that, except for the purpose of the performance of his duties or the exercise of his functions, or required to do so by a court, no specified person shall disclose any information relating to the affairs of the Commission obtained in the performance of his duties or the exercise of his functions. Any person who contravenes this section commits an offence and should be liable as set out in that section. A new section 189A is inserted to provide for information to be furnished to the Tax Commissioner, or other statutory body listed in Schedule 2, to enable the performance of public functions or duties and for the Commission to publish the name and address of any applicant for a licence or approval and any information relating to the progress or outcome of such an application.

A new section 189B is inserted to provide for a person to disclose information to the Commission to assist the Commission in the performance of its functions, and such disclosure shall not be a breach of confidence or other restrictions unless it is subject to legal professional privilege. This section also exempts the provisions to the Rehabilitation of the Defenders Act 1977, and provides that an applicant or an associate shall be required to disclose any conviction for an offence of dishonesty, violence, or any gambling offence.

Clause 70 amends section 190 of the Act by exempting the provisions of Part 3 of the Public Access to Information Act 2010, the Personal Information and Protection Act 2016, so that the Commission is not to be required to disclose information obtained from or provided to a foreign casino regulatory body under a Memorandum of Understanding.

Clause 71 amends section 192 to provide a general penalty provision applicable to all persons where no penalty is stipulated.

Clause 72 amends section 196 to empower the Minister to make regulations for the granting of casino licences and provisional casino licence in the storage and protection of information obtained by the Commission or the council. It also revises the regulations made under sections 4, 143, and 144. And regulations relating to fees shall be subject to the affirmative resolution procedure.

Clause 73 amends Schedule 2 to the Act so as to expand the list of bodies with which the Commission may exchange information to include any foreign casino regulatory bodies, the Bermuda Police Service, and the Financial Intelligence Agency.

Clause 75 *[sic]* makes consequential amendments to the Prohibition of Gaming Machines 2001, and clause 76 *[sic]* provides for commencement of this Bill.

The Chairman: Those were clauses 74 and 75, instead of 75 and 76.

The Hon. Dr. E. Grant Gibbons: Oh, I am sorry. Did I get the numbering messed up here?

The Chairman: That is okay. That is all right.

The Hon. Dr. E. Grant Gibbons: Yes, okay.

The Chairman: The last two.

The Hon. Dr. E. Grant Gibbons: Yes, exactly that.

The Chairman: Are there any other Members who would like to speak to clauses 68 through 75?

No Members.

Minister.

The Hon. Dr. E. Grant Gibbons: Bless them, Madam Chair.

[Laughter]

An Hon. Member: That is a first for him to say that.

The Hon. Dr. E. Grant Gibbons: Madam Chair, I move that clauses 68 through 75 be approved as printed.

The Chairman: It has been moved that clauses 68 through 75 be approved as printed.

Any objections to that motion?

No objections; agreed to.

[Gavel]

[Motion: Clauses 68 through 75 passed.]

The Chairman: Preamble. The Preamble, Minister?

[Inaudible interjections]

The Hon. Dr. E. Grant Gibbons: I move the Preamble, Madam Chair.

The Chairman: It has been moved that the Preamble be approved as printed.

Any objections to that motion?
No objections; agreed to.

[Motion carried: Preamble passed.]

The Hon. Dr. E. Grant Gibbons: 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 to that motion?
No objections—well done!—agreed to.

[Pause]

The Chairman: Thank you, one and all.

[Gavel]

[Motion carried: The Casino Gaming Amendment Act 2016 was considered by a Committee of the whole House and passed with amendments.]

House resumed

[Hon. K. H. Randolph Horton, Speaker, in the Chair]

REPORT OF COMMITTEE

CASINO GAMING AMENDMENT ACT 2016

The Speaker: Honourable Members, the Casino Gaming Amendment Act 2016 has been approved with amendments. The second reading has been approved.

Any objections to that?
There are none.

I am made to understand that all other orders are carried over. Is that correct?

So, the Chair will ask the Attorney General . . . the Learned Attorney General has the floor.

SUSPENSION OF STANDING ORDER 21

Hon. Trevor G. Moniz: Thank you, thank you, Mr. Speaker.

I move that Standing Order 21 be suspended to enable me to move that the Bill entitled the Bribery Act 2016 be now read the third time by its title only.

The Speaker: Any objections to that?
Carry on, please, Attorney General.

[Motion carried: Standing Order 21 suspended]

BILL

THIRD READING

BRIBERY ACT 2016

Hon. Trevor G. Moniz: The Bribery Act 2016. I now move that the Bill do pass.

The Speaker: Thank you.
Any objections to that?
The Bribery Act 2016 has been passed.

[Motion carried: The Bribery Act 2016 was read a third time and passed.]

The Speaker: The Chair will now recognise the Junior Minister of Tourism, Junior Minister Bascome.

Hon. Kenneth (Kenny) Bascome: Good morning, Mr. Speaker.

The Speaker: Good morning.

SUSPENSION OF STANDING ORDER 21

Hon. Kenneth (Kenny) Bascome: I move that Standing Order 21 be suspended to enable me to move that the Bill entitled the St. George's Resort Amendment Act 2016 be now read the third time by its title only.

The Speaker: Any objections?
Carry on, Minister.

[Motion carried: Standing Order 21 suspended]

BILL

THIRD READING

ST. GEORGE'S RESORT AMENDMENT ACT 2016

Hon. Kenneth (Kenny) Bascome: I now move that the Bill do now pass.

The Speaker: Any objections to that?
There are none. So the St. George's Resort Amendment Act 2016 is passed.

[Motion carried: The St. George's Resort Amendment Act 2016 was read a third time and passed.]

The Speaker: The Chair will now recognise the Honourable Minister for Economic Development.

SUSPENSION OF STANDING ORDER 21

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

I move that Standing Order 21 be suspended to enable me to move that the Bill entitled the Casino Gaming— *[coughing]*

[Laughter]

The Hon. Dr. E. Grant Gibbons: Let me try that again.

[Inaudible interjection]

The Hon. Dr. E. Grant Gibbons: No. I think it was my colleague's water here that did it. Let me try that again, Mr. Speaker.

I move that Standing Order 21 be suspended to enable me to move that the Bill entitled the Casino Gaming Amendment Act 2016 be now read the third time by its title only.

The Speaker: Thank you.
Any objections to that?
Minister.

[Motion carried: Standing Order 21 suspended]

BILL

THIRD READING

CASINO GAMING AMENDMENT ACT 2016

The Hon. Dr. E. Grant Gibbons: Yes. The Casino Gaming Amendment Act 2016. I move that the Bill do now pass. Thank you.

The Speaker: Thank you.
Any objections?
The Bill Casino Gaming Amendment Act 2016 is passed.

[Motion carried: The Casino Gaming Amendment Act 2016 was read a third time and passed.]

The Chairman: The Chair will recognise the Honourable Premier.

ADJOURNMENT

Hon. Michael H. Dunkley: Thank you, Mr. Speaker.
I move we now adjourn to Friday, the 25th.

The Speaker: Thank you.

The Chair will recognise the Member from constituency number 29.

Hon. Zane J. S. De Silva: Thank you, thank you very much, Mr. Speaker.

Mr. Speaker, I rise tonight to talk about a few things that—

The Hon. Dr. E. Grant Gibbons: That was this morning.

SOUTHAMPTON RANGERS CLUB

Hon. Zane J. S. De Silva: This morning, yes, right. It is not morning, Mr. Speaker.

But I rise tonight to talk about a situation in my constituency, in fact, a couple of situations, Mr. Speaker, which I have certainly mentioned prior in this House. And I venture to stand on my feet and mention some of those again tonight.

Mr. Speaker, Southampton Rangers have a new president in Mr. Jason Wade. And he is doing . . . he certainly has lofty goals. And he showed that this week, Mr. Speaker, by hosting a Seniors Tea Party at Rangers, along with Mrs. Winona Tucker, and they also had some young men from Whitney. The post programme they have at Whitney, Mr. Speaker. And they have done a fantastic job.

Mr. Wade and his committee are hell-bent on changing the stigma attached to Southampton Rangers, Mr. Speaker. And you will know that I have said in this House a few times already, and I will sound out a call to the OBA Government to once again see if they can look into helping Southampton Rangers with regard to the field that they pay for. Mr. Speaker, I am sure you probably know by now, I have said it often enough in this House, that Rangers are the only club in Bermuda that pay rent for their field. And they pay \$1,200 a month, Mr. Speaker.

And why do I keep bringing this up? Well, I think that the Government have to try to assist the Rangers in some way—have to, Mr. Speaker. We have had several shootings. We have had a death at Rangers, Mr. Speaker. And, you know, it is no secret that one of the most important or the biggest revenue generators in our workmen's club is the sale of alcohol, Mr. Speaker.

It is our belief in Southampton that if we were to receive some type of assistance with this rent which currently is a bag of cement soaking wet, Mr. Speaker, on the shoulders of those at the club . . . it is a heavy burden. It is our belief that if we can get assistance with this rent which is due every month, Mr. Speaker, that they just might be able to stop certain people from coming in the club. And it might help the executive to make decisions on what they sell, when they sell, and who they sell it to.

So my call goes out to the OBA Government, Mr. Speaker, and to the Minister who acts for National Security in this House, to try and do something to assist the club to help them. There are a lot of people up there, Mr. Speaker. We had about 70 seniors attending. They were not afraid to come to Rangers to that tea party. And they were most of them from the Southampton area. And they want, Mr. Speaker, what most people want in this country, for us to arrest the social problems that we are currently having. And as a stand against some of these ill things that are happening in our country, Mr. Speaker, they did not have any problem, our seniors, attending that tea party at Rangers.

So my call goes out to the OBA. When they sit in Cabinet on Tuesday, put this on the agenda and see what we might be able to do to assist Southampton Rangers.

Now, Mr. Speaker, you would know also that I have said several times in this House, it has been two years and six weeks today—two years and six weeks since I first talked to the former Minister of Works and Engineering about the Camp Hill Road junction, right outside Island Cuisine, right outside Sousa's landscaping and gardening business, Mr. Speaker.

Mr. Speaker, a couple of years ago, it has been a couple of years now, former Minister Pat Gordon-Pamplin quoted Jeff Sousa. And she said that he had raised it with her, as well. Mr. Sousa also said, Mr. Speaker—

The Speaker: Honourable Member, let us use *Honourable Member from . . .*

Hon. Zane J. S. De Silva: Honourable Member from constituency 28, I think.

The Speaker: Twenty-eight.

Hon. Zane J. S. De Silva: The Honourable Member from constituency 28 said he mentioned it, told his constituents, in a newsletter, about the same junction and how dangerous it was. And, Mr. Speaker, let me remind Members that there was a young man who lost his life there.

Mr. Speaker, the former Minister of Works also said that she viewed it as a matter of urgency and had her technical officers working on it. Now, I know that she has since gone on. But of course, the new Works and Engineering Minister has certainly heard me make this statement before. So now I put it to him that his colleague has said this was a matter of urgency and that plans were well advanced, well advanced (her words). And if they were well advanced, where are we now? This was two years and six weeks ago today, Mr. Speaker.

So I would like for the Minister . . . and let me give that Minister of Works, from constituency 12 (my former constituency) some thanks, Mr. Speaker, be-

cause the next thing I am going to talk about is something that I hope is on his agenda, but I have to remind him. You will know, Mr. Speaker, certainly I do not have to tell you anything about Eldon Raynor. And some of his family live up in Southampton. I do not have to tell you about Frankie Rabain and his brother Blade who lives right at the top of Sunnyside Park, Mr. Speaker. And the Minister, I thank him for coming up. He took time out of his busy schedule. He came up and had a look.

Mr. Speaker, that is a piece of government property. It is probably about maybe the size of this room, Mr. Speaker. But I will tell you what the residents of Southampton and Sunnyside Park have been doing. They have cleaned it up. They mow the grass. They keep it in good shape. And of course, with the America's Cup looming, Mr. Speaker, you get a good view from up there, I am sure the Minister will attest.

What we would like to do, Mr. Speaker, is take some of the burden off the Government, some of the financial burden off the Government. Because what the residents of Sunnyside Park have said is that they will continue to maintain a property about this size, Mr. Speaker, if we would designate it a park for those residents in Southampton, and in particular Sunnyside Park.

So I just mention that tonight as a reminder to my good friend, Mr. Cannonier, from constituency 12. And I am hoping that between him and his Cabinet colleagues, these three items that I have brought tonight, they can maybe put the cap on a few of them. Thank you, Mr. Speaker.

The Speaker: All right. Thank you, Honourable Member.

The Chair will recognise the Honourable Leader of the Opposition. MP David Burt, you have the floor.

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

The Speaker: Good morning.

L. F. WADE INTERNATIONAL AIRPORT— TERMINAL REDEVELOPMENT

Hon. E. David Burt: Mr. Speaker, I rise to my feet tonight to speak on a matter of national importance. Because soon, this House is going to actually consider a number of pieces of legislation in regard to a project that we have been discussing for quite some time in this House. And that is the new terminal at the L. F. Wade International Airport.

Now, the Government has released a number of reports over the last few days, starting last week when they released a report to Parliament. And then last week Friday, I believe, they released a number of other reports. The Minister had a press conference today. Now, these reports are voluminous, and these

reports are certainly required. And these reports are the Government's attempts to fill the terms of the letter of entrustment.

But one of the things that happened earlier today in the Finance Minister's press conference is, the Minister of Finance stated that . . . and inside of the documentation which has been released to the Members of Parliament is that the Cabinet has agreed the deal. So if the Cabinet has agreed the deal, then the Government knows the deal that the people are getting themselves into.

Remember, Mr. Speaker, it was not long ago that there were summons from a committee that I was once a member of, the Public Accounts Committee, which were refused by the Government on behalf of [the fact] that negotiations were still ongoing. Well, if the Cabinet has now approved the deal, and that means that the core project document's date has been met, and it is spelled out in the airport development agreement, that means that there can be no more substantive changes to the terms that have been negotiated.

And that means, Mr. Speaker, that the Minister of Finance must be true to his word and share those details with the Public Accounts Committee, because the contract has now been negotiated. They should share the details with the Public Accounts Committee, and the people of this country, the people's representatives, should have a thorough examination of that, Mr. Speaker.

Why is that important? Mr. Speaker, if this airport project deal goes through, it will bind not only this Parliament, but at least five successive parliaments to a spending plan. That is five successive parliaments where the people of this country will not have a voice or a say in an airport deal. That means, Mr. Speaker, that it is important to get it right.

Now, why do I say that it is important to get it right? Mr. Speaker, I hear all this chirping on the other side talking about the hospital. Well, let me make it clear, Mr. Speaker. The hospital was put out to tender. The hospital was not a sole-source project. The hospital completely complied with Financial Instructions. The hospital did not hide any details of a vendor which was supposedly selected in advance from their own Accountant General, Mr. Speaker. So let us be clear on the comparisons when it talks about the hospital, Mr. Speaker, which met international standards. So we can hear about the hospital as much as we want. But the fact is that that [project] was held in a tender, and there was no question when it comes to value for money, Mr. Speaker, none whatsoever.

But here we go. Because I think that this is important, Mr. Speaker, and I have to make this point. The Minister of Finance said, once the negotiations are complete, that the details would be shared with the public. If the core project document's date has been met . . .

Hon. E. T. (Bob) Richards: Point of order.

The Speaker: Yes.

Hon. E. T. (Bob) Richards: Point of order.

The Speaker: What is the point of order, sir?

Hon. E. T. (Bob) Richards: The Honourable Member is misleading the House.

The Speaker: That is not a point of order. Misleading the House is not a point of order.

Hon. E. T. (Bob) Richards: Misleading the House is not a point of order?

The Speaker: That is not a point of order, no.

Hon. E. T. (Bob) Richards: Since when is it not a point of order?

The Speaker: No. You know, a point of order means that you are speaking contrary to the Standing Orders.

Hon. E. T. (Bob) Richards: Well, how about he is speaking contrary to the truth?

The Speaker: If you want to ask for a matter of clarification, you can do that. If it is a matter of truth or non-truth, then you will have an opportunity to stand up and refute that.

Hon. E. T. (Bob) Richards: Is this a new set of rules, Mr. Speaker?

The Speaker: It is not a new set of rules, no.

Hon. E. T. (Bob) Richards: But you are interpreting this differently now?

The Speaker: Well, this is my position. And I have stopped people, or I am telling people that the fact that you do not agree with what somebody says is not a point of order.

Hon. E. T. (Bob) Richards: It is not a point of agreement. It is just that it is not true.

The Speaker: Yes. Then you ask for a point of clarification.

Hon. E. T. (Bob) Richards: Okay. A point of clarification, then.

The Speaker: Okay. And the Honourable Member—right, he is yielding. So that is it, right? Are you clear?

Hon. E. T. (Bob) Richards: Yes. I am learning.

The Speaker: All right.

POINT OF CLARIFICATION

Hon. E. T. (Bob) Richards: What I said in the press conference this afternoon is that on the essential points the Cabinet has agreed. But the lawyers are still duking it out on lawyer-type matters. So the agreement has not been agreed in finality, in totality. In any case, the project agreement cannot be agreed until we have passed the legislation.

The Speaker: All right. Thank you.
Carry on, MP Burt.

Hon. E. David Burt: Mr. Speaker, I find that interesting. And the reason that I find it interesting is that in the documentation that the Minister of Finance handed out to everyone, it spoke about the cost to break the agreement. The Minister of Finance says the agreement, having now been approved by Cabinet, provides that the Government will be liable for 120 per cent of all costs incurred by the project partner, plus other third party costs, plus a \$5 million breakage fee if the project is terminated by the Government or the project partner.

Now that only comes into effect when the core project document's date is met as per the airport development agreement. And the airport development agreement makes it very specific that the only changes that can be made at that point are the changes that are required by senior lenders for financial close. So, is the Minister not following what is supposedly spelled out in the contract? Or is this not correct? Because something is not adding up, Mr. Speaker. I am familiar with what the airport development agreement says. And the airport development agreement is very specific on the core project document's date. And once that date is met is the only time that the breakage fee comes into effect.

So if the breakage fee is listed here in a document that we have in front of us, saying that the Cabinet has agreed to something, then how is the Minister of Finance saying that negotiations are still going on? Has the airport development agreement been amended and we do not know? That is part of the problem, Mr. Speaker. We do not know. And the people of this country, the representatives of this country, are going to be asked to commit this country to 30 years on facts that we do not know.

Mr. Speaker, how can this Parliament be sure that this is a good deal? How can this Parliament be sure that this is the right deal for the people of this country, Mr. Speaker?

Hon. E. T. (Bob) Richards: Mr. Speaker.

Hon. E. David Burt: How can the people know—

The Speaker: Yes.

Hon. E. T. (Bob) Richards: I do not know if this is a point of order or clarification. But the Honourable Member is clearly foreshadowing a debate that is coming up.

Hon. E. David Burt: No, I am not.

Hon. E. T. (Bob) Richards: I mean, you know, trying to have two bites of the cherry. You have got legislation on the [Order] Paper that is coming up, and the Honourable Member is arguing his case on that legislation. It ought to be against the rules.

The Speaker: Thank you, Honourable Member.
Yes, MP Burt.

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

Mr. Speaker, I will continue because there are two specific items of legislation on the [Order] Paper, and I am not discussing those. I am discussing documents which have been revealed inside of the public domain. And I think it is important. And I think it is very interesting, Mr. Speaker—

Hon. E. T. (Bob) Richards: Mr. Speaker.

The Speaker: Yes, yes, yes.

Hon. E. T. (Bob) Richards: Mr. Speaker, point of clarification.

The Speaker: Yes.

POINT OF CLARIFICATION

Hon. E. T. (Bob) Richards: That legislation and the transaction are integral to one another. The paper that he is quoting, I laid with the legislation. His point is a non-point. He is foreshadowing a debate that is coming up.

The Speaker: All right. Thank you.
All right. Honourable Member, if you can—

Hon. E. David Burt: Mr. Speaker.

The Speaker: —move quickly and bring us to a close.

Hon. E. David Burt: I have got it, because I understand where the Honourable Member is trying to go. But the reason I went there is because of the clearly misleading statements which were said earlier, Mr. Speaker. I referred to this because this is where the breakage fee was laid out, Mr. Speaker.

The Honourable Member, the Honourable Minister of Finance said earlier today that negotiations

are still going on. But according to this document, of which he said Cabinet has agreed and negotiations are finished . . . So which one is it, Mr. Speaker?

And it is—

Hon. E. T. (Bob) Richards: Point of clarification.

Hon. E. David Burt: And is it the fact—

The Speaker: Yes. One second, Honourable Member.

Hon. E. David Burt: I do not yield, Mr. Speaker.

The Speaker: All right. Let the Honourable Member carry on.

Hon. E. David Burt: And, Mr. Speaker, is it a fact, Mr. Speaker, that while we are set to consider Bills in the future, which will form part of this agreement, that we now find out that negotiations are still going on? So what is it that we are supposed to be agreeing to, Mr. Speaker, if negotiations are still happening?

So, Mr. Speaker, I go back to the first point. Because the Minister of Finance said that once negotiations are finished, he will share everything with everyone. Well, when that time comes, Mr. Speaker, I think that is the correct time for us to start to consider legislation, Mr. Speaker. But to move forward, because I think it is a good point, because the documents that were revealed and spoken about in the Minister's press conference today, speaking about value for money and a value for money assessment on the L. F. Wade International Airport, are interesting to me, Mr. Speaker. Because in the Honourable Minister's Statement today, he said, and I quote, "The VFM [value for money] assessment highlights how the Airport Redevelopment Project compares with similar P3 deals and concludes that the project achieves value for money for the people of Bermuda," end quote.

But, Mr. Speaker, the report did not say that. The report did not say that it achieves value for money for the people of Bermuda. The report said the following, Mr. Speaker, and I quote: "Based on our review of the circumstances, analysis of the strategic financial case and estimates on economic impacts of the Government's chosen option [(G2G)] represents value for money when compared to the two Public Sector Comparators" of doing nothing and the design-built option, Mr. Speaker. But guess what? The Government used a \$575 million for the design-built option when the airport that is proposed right now cost \$256 million. So clearly, you are going to get a favourable value for money assessment, Mr. Speaker, if you use a number that is twice as high.

We in this country and in this Parliament will be asked to consider legislation when we have not had the benefit of an independent analysis and a review. This company took the figures the Government

gave them and said, *If we use the figures that you gave us, then, yes, it compares with value for money. But we're not going to consider other options.* We are not going to consider the most basic option, of which people of this country would get, that if we take the plans that we have spent, according to the Minister of Finance, \$18 million to develop, if we take the plans and the project plans and all those other type of things that have gone into . . . remember, Mr. Speaker, the Honourable Minister of Finance was talking about all this money that we spent on consultants that we spent on the hospital, \$10 million on consultants? Well, our bill is up to \$18 million right now, Mr. Speaker, \$18 million. But that is what you do in the beginning of a project.

Can I check my time, Mr. Speaker?

The Speaker: You have seven minutes.

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

But that is what you do. And I have knowledge on this, Mr. Speaker, as I am a certified project manager. And the way to ensure that you get things right is you do the analysis, which is required, at the beginning. And that process is being done. But it is expensive, Mr. Speaker. And as we see, it has cost us \$18 million to date.

Some Hon. Members: Wow. Wow.

Hon. E. David Burt: Eighteen million dollars! That is how much it is, Mr. Speaker.

So, when all of that is said and done, Mr. Speaker, if we take the plans that we paid \$18 million or spent \$18 million on . . . we have not paid it. It is just all going to be rolled up into this money that Aecon, you know, makes a 16 per cent return on. So if we take all of these items, Mr. Speaker, why do we not have an analysis that says, *If the Government of Bermuda were to take the plans, which are currently paid for, and find out how much it would cost us to build when we are not giving a Canadian company a guaranteed 16 per cent return on their investment, whether or not it will be cheaper for the people of this country?* A simple analysis, Mr. Speaker, of which we have not had.

And it is shocking that the Minister of Finance would get up and say that this report says that the project achieves value for money for the people of Bermuda when he himself knows and admits, and the concerns which were expressed in this very document that they are not comparing apples to apples, that the only comparison which they have is a project that was valued at twice the size with a completely different scope, with a ferry terminal and all those other type of things, Mr. Speaker.

Let us consider what we have, and to consider whether or not, if we did it ourselves or if we privatised it to a Canadian company, who is going to earn a

16 per cent return, whether or not the taxpayer ends up better off, Mr. Speaker. So, I say this to say, Mr. Speaker . . . and I spoke to the Honourable Premier a while ago to ask him if he would have time to meet on Wednesday. And I am going to meet with members of my caucus, because I think it is important, Mr. Speaker, that we get it right.

And it is important that the Opposition be responsible. In this particular matter, I think that it is very responsible to make sure that we ask for a fair and independent assessment of the figures of which the Government is having. Because it makes no sense, Mr. Speaker, for us to go through with this project, for the Government to use their vote majority and ram it down our throats to find an Auditor General's report two or three years in the future stating, *This project may not offer the value for money of which we thought, and it probably could have been done at a savings to the taxpayer in another way*, Mr. Speaker.

I do not think that any of us wants that. And I think the best way to make sure we avoid that is to request that the Auditor General look at this project first and give us a report before Parliament votes so that we can all be certain that the independent analysis has been done and this is the right project for Bermuda. And, Mr. Speaker, I would posit that there is nobody on the Government benches, including the Honourable Premier (who I see in the corner is giving me a nice smile) . . . I believe that there is no one on the Government benches who should object to that. Because if we are going to uphold the highest principles of good governance, why would we be afraid of the Auditor General looking at the airport deal prior to its being done?

And, Mr. Speaker, the airport development agreement goes all the way up until March 21st, 2017. So there is time for it to be achieved during that time period, Mr. Speaker. But I think it is important that we get it right. And to ensure that we get it right, I suggest that this Parliament ask the Auditor General to have a look at the project first to provide her own independent assessment so that we can be sure, and the Members on the One Bermuda Alliance side, as opposed to being assured by the Whip, they can be assured that the vote that they give in good conscience is the right vote for the people of this country, Mr. Speaker.

So I will speak to the Premier on this later this week. And I put that to you, Mr. Speaker, and I put that to the Members on the other side, that it is something that we should certainly consider to ensure that we get this project right. Thank you, Mr. Speaker.

The Speaker: All right. Thank you, Honourable Member.

Would any other Members care to speak?

[Pause]

The Speaker: The House is adjourned to Friday, the 25th.

[At 12:38 am [Tuesday, 22 November 2016], the House stood adjourned until 10:00 am, Friday, 25 November 2016.]

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