

HOUSE SELECT COMMITTEE MEETING

*Transcript of the Meeting of the
House Select Committee on Elections
held in the Library, Sessions House,
on Tuesday, 24th September, 2013
commencing at 2:00 p.m.*

PRESENT:

Mr. Walton Brown, JP, MP - Chairman

Ms. Jeanne Atherden, JP, MP

Mr. Glen Smith, JP, MP

Ms. Kim Wilson, JP, MP

Ms. Susan Jackson, JP, MP - apologies - not present

Ms. Meredith Ebbin - Clerk to the Committee

INVITED GUEST SPEAKER:

Mr. Edward David Gerald Burt, JP, MP,
Shadow Minister of Finance

1 **TUESDAY, 24TH SEPTEMBER 2013**

2 --- upon commencing at 2:00 p.m.

3 **INVITED GUEST: MR. EDWARD DAVID GERALD BURT**

4 **THE CHAIRMAN:** Good afternoon,
5 Mr. Burt. Thank you for attending this session of the
6 Select Committee on Elections.

7 As you know we have a mandate to examine
8 a number of issues related to elections in Bermuda and
9 you were invited to come before this Committee because
10 you have had experience running extensive parts of at
11 least two election campaigns, to my knowledge, and we'd
12 just like to get some feedback from you in terms of
13 your experiences and knowledge of the process that's
14 involved in doing all things according to the law with
15 respect to elections.

16 And so the first thing I'd like to do is
17 to have you state your full name before the Committee,
18 and your sort of political background, if you will, a
19 brief synopsis of that.

20 **MR. BURT:** My name is Edward David
21 Gerald Burt and I've been in Parliament now since --
22 Parliament since November 2010, in the Upper House, and
23 after the last election the Lower House.

24 Served as Chairman of the Progressive
25 Labour Party when I was elected in 2006 until 2009 and

1 worked to oversee that campaign. I was not the
2 campaign manager but worked to oversee the 2007
3 election campaign and was also involved in the 2012
4 Election Campaign, for the PLP.

5 **THE CHAIRMAN:** Okay. As people prepare
6 for the election, there are a number of steps that one
7 needs to go through, and one of the issues, as you will
8 know, that this Committee is looking at is the whole
9 issue of candidates' declaration of interest in
10 Government contracts in order to validate their
11 candidacy.

12 In 2007, were you aware of that
13 requirement?

14 **MR. BURT:** Yes, in 2007, I was aware of
15 that requirement. I think both parties at the time
16 were aware of the requirement and --

17 **THE CHAIRMAN:** How do you know that?

18 **MR. BURT:** Because both parties filed
19 declarations in the newspaper seven days after
20 nomination day, as per, I believe it's the
21 Parliamentary Election Act, but I'm not entirely
22 certain.

23 **THE CHAIRMAN:** Okay. And what do you
24 understand that requirement to involve?

25 **MR. BURT:** It says that -- the

1 Parliamentary Election Act says -- and I do not have it
2 in front of me so I apologise, but I do believe it's
3 Upon nomination for a general election or a bi-
4 election, or upon appointment to the Senate, within
5 seven says one must declare, by publishing a notice in
6 a newspaper circulated in Bermuda, I believe it is, or
7 the Official Gazette -- I'm not certain -- that
8 person's interests in any Government contract.

9 **THE CHAIRMAN:** Okay. And that was done
10 in 2007.

11 **MR. BURT:** The Progressive Labour Party
12 did in 2007 and I know the United Bermuda Party in 2007
13 did that as well.

14 **THE CHAIRMAN:** So you saw sight of both
15 those published ads in the Official Gazette?

16 **MR. BURT:** Well, I was responsible for
17 putting together the 2007 one for the PLP, so, yes, I
18 saw that one, and the 2007 one for the UBP, yes, saw
19 that one as well.

20 **THE CHAIRMAN:** Okay. And as we
21 prepared for the 2012 election, what was your role
22 then?

23 **MR. BURT:** Two-thousand-and-twelve, it
24 was -- it was a similar process. I wasn't directly
25 involved with making sure that the declarations were

1 compiled and put in, but I know that I submitted my
2 information, as my company, that I'm a majority
3 shareholder in, has interests in a Government Contract,
4 so I know that I was required to file.

5 Also, upon my appointment to the Senate
6 in 2010 I also put an advertisement in a newspaper to
7 make sure I fulfilled that requirement as well, and
8 said that, you know, I have interests in Government
9 contracts and specified the Government contract.

10 **THE CHAIRMAN:** Okay. So, is there any
11 doubt in your mind that candidates are required to make
12 such declaration, or is there some way to an opinion
13 that says it's optional?

14 **MR. BURT:** I don't believe so. Not
15 from my reading of the law. From my reading of the
16 law, and I think it's always been custom and practice,
17 and I think that during all campaigns it's been done.

18 **THE CHAIRMAN:** Okay. Thank you.

19 Questions from anyone? No?

20 Do you have any views on how we can
21 enhance the electoral process? There have been a
22 number of questions raised about various aspects, and
23 while we don't have the time to look at all of them,
24 because we have a six-month remit, but do you have any
25 views on what can be done to enhance the nature or our

1 electoral process?

2 **MR. BURT:** You said do I have any views
3 or do you say given the views?

4 **THE CHAIRMAN:** Do you have any views?

5 **MR. BURT:** Oh, well, are you sure you
6 want them? You have enough time? How long do you
7 have?

8 **THE CHAIRMAN:** We'll give you a few
9 minutes to speak to that issue.

10 **MR. BURT:** In so far as our electoral
11 process, I believe that there is certainly a challenge
12 when it comes to registered voters and I think it's
13 something that needs to be looked at. There's been,
14 you know, both -- two political parties have two
15 different options, one calls for, you know, throwing
16 everyone off the Register and making them register
17 again, another party, you know, supports continuous
18 registration and put that in place.

19 I do, however, think that it's
20 important, given that our elections are won and lost by
21 narrow margins, to ensure that individuals voting
22 inside are people who are supposed to be voting in
23 their particular constituency and the law makes
24 allowance for that, and I know that we made some change
25 in the law last time.

1 I also believe that the whole discussion
2 about absentee voting is something that's a challenge
3 to me, and the reason why I say it's a challenge to me
4 is because in the exact same token that you have
5 individuals that are elected by very narrow margins,
6 you know, it's as little as four votes, it's important
7 to the integrity of the process that the people voting
8 are the ones that are intending to -- that are supposed
9 to be voting and the ones that are actually supposed to
10 be casting their ballot, and with various models of
11 absentee voting I think there's a challenge.

12 I know that when the Parliamentary
13 Registrar was asked to look at it previously, he came
14 back and his recommendation was not to proceed with it,
15 because if he could not -- I don't believe he felt that
16 he could guarantee the integrity of the voting process,
17 you know, if you're doing it by mail, how do you know
18 who's going to actually take that thing, fill out the
19 ballot and return it, and I think that that can just
20 add more challenges to the process.

21 And the final thing which I would like
22 to say is that I think that for -- I think that with
23 politics and elections and campaigns, I believe that
24 transparency is important, and in the exact same way
25 that the Parliamentary Election Act requires

1 individuals to declare any interests which they have in
2 Government contracts, and also as we have a Register of
3 Interests and things like that to make sure that we --
4 and codes of conduct, et cetera, to make sure that
5 people are kept abreast.

6 I also believe that we're lacking any
7 codes of conduct when it comes to the local parties,
8 and I speak specifically about campaign finance reform.
9 I think that it's well past the time that we have
10 campaign finance reform. I personally believe that
11 whether or not you have spending limits in an election
12 is a different issue, but I do believe that campaign
13 finance reform is needed and at the very minimum
14 reporting of donations towards local parties and
15 reporting of expenditures, as is done in most advanced
16 and developed countries. I think that you cannot have
17 transparency unless you have that aspect. It's all
18 good and well to know which of your elected officials
19 have certain interests.

20 **THE CHAIRMAN:** Right.

21 **MR. BURT:** The Register of Interests in
22 the House isn't even mandatory, so the only mandatory
23 declaration is if you have any interest in a Government
24 contract, as per the Parliamentary Election Act, but I
25 do believe that the method which campaigns are run, we

1 don't know who's giving the money, how much money is
2 given, how much money is being spent and no
3 accountability on that end, and money can influence
4 politics, so I think that it's something that the
5 voters should at least know who's giving the money so
6 at least they can understand from that perspective --

7 **THE CHAIRMAN:** Right. How policy might
8 be shaped.

9 **MR. BURT:** Mm-hmm. Absolutely.

10 **THE CHAIRMAN:** Okay. Do you have a
11 question on that?

12 **MR. SMITH:** I want to talk about
13 absentee ballot challenge.

14 If you look at the way the system that
15 we have today, Mr. Burt, you're absolutely right, it
16 wouldn't work because we know the scrutinizers isn't
17 working at all; however, wouldn't you think that a
18 student that is overseas should have the opportunity to
19 vote --

20 **MR. BURT:** Mm-hmm.

21 **MR. SMITH:** -- in an election, when the
22 students can't afford to come back to vote for whomever
23 party or whoever candidate they wish?

24 **MR. BURT:** What I would say, I think
25 that there is a competing interest, and there is the

1 question of one must judge the competing interest. If
2 it were up to me, then, yes, I believe that a student
3 who is away in school should be allowed the right to
4 vote, as is anyone who is on a temporary thing
5 overseas. The Parliamentary Election Act states who
6 can vote. If you've moved overseas and you no longer
7 live in Bermuda, you are not entitled to vote. But if
8 you are temporarily overseas, then, yes, you are.

9 The question is, I don't believe that
10 there is any issue, and I don't believe that there is
11 any distance between any political party, or anyone in
12 Bermuda saying that individuals who are entitled to
13 vote should be allowed to vote. The question is how
14 and whether of not you can guarantee that the person
15 casting the ballot is the person who is supposed to be
16 voting. It can be very simple, if it's a mail vote of
17 someone else, for, with the low margin, and I mean the
18 tight seats which we have, for the process to be
19 brought into, you, know, complete chaos.

20 What if there's a situation where there
21 are certain seats which are won by four votes and then,
22 you know, someone says, Oh, well, I didn't get my mail
23 ballot, or someone says, I filled out a mail ballot for
24 someone else, something like that, I mean, that can
25 cause problems, and I think that I have no -- I don't

1 believe that anyone has any objection to an absentee
2 balloting process but I think that you must ensure that
3 the person that is supposed to be casting the vote is
4 the actual person casting the vote.

5 I have no issue with a voting by mail
6 process either, but you have to make sure, and, I mean,
7 there will come a point in time as technology advances,
8 in the next few years, that it might be able to enable
9 those type of things.

10 **MR. SMITH:** The technology is there.

11 **MR. BURT:** What I would say is, we can
12 talk about technology, I'm not certain about
13 technology. What I would say is that it is important
14 to ensure that the individual that is casting the
15 ballot or is cast the ballot is the actual person who
16 is supposed to and is entitled to cast the ballot, and
17 if you can not ensure that, then it's, as I said, it's
18 a balance, it's the balance of two interests, and it's
19 a public interest to ensure that elections are beyond
20 question in so far as their validity.

21 **THE CHAIRMAN:** Mmm.

22 **MR. SMITH:** Okay. Thank you.

23 **THE CHAIRMAN:** Just getting back to the
24 issue of declaration of interests.

25 **MR. BURT:** Mm-hmm.

1 **THE CHAIRMAN:** There is a view being
2 expressed in some quarters that one is not required to
3 make a declaration of interest in a government contract
4 if that contract has been -- if that contract is on the
5 same terms -- entered into on the same terms --

6 **MS. WILSON:** And conditions.

7 **THE CHAIRMAN:** -- that any other member
8 of the public would have entered into it. And did you
9 ever have any discussion with --

10 **MR. BURT:** I don't agree with that. I
11 think what has happened and I think --

12 **THE CHAIRMAN:** Well, --

13 **MR. BURT:** Sorry.

14 **THE CHAIRMAN:** Right. If I can be
15 allowed to finish my question?

16 **MR. BURT:** Mm-hmm. You did finish your
17 question. You said do you agree with that?

18 **THE CHAIRMAN:** Well, that was the first
19 part of my question.

20 **MR. BURT:** Okay.

21 **THE CHAIRMAN:** The second part is, did
22 you ever have any discussions with anyone in the
23 Progressive Labour Party about the application of that
24 particular interpretation?

25 **MR. BURT:** Well, yes. I remember in

1 2007 there were certain applications when it came to,
2 and in 2007 the Progressive Labour Party, I believe,
3 only made one declaration, and that was for MP Zane
4 DeSilva, who was a candidate at that time, and I think
5 they made one declaration, and I know that the United
6 Bermuda Party at the time made about 20 declarations.

7 **THE CHAIRMAN:** Mm-hmm.

8 **MR. BURT:** And the United Bermuda Party
9 made 20 declarations. What's interesting is that the
10 candidates that were running in 2007 that made those
11 declarations in 2007, the same candidates did not make
12 those declarations in 2012. So, I mean, that raised a
13 point of interest. They were candidates on the ballot
14 in 2007 -- I see you're looking puzzled.

15 **THE CHAIRMAN:** I'm looking puzzled.

16 **MR. BURT:** That were on the ballot in
17 2007 for the United Bermuda Party, that made
18 declarations, and in 2012 for the One Bermuda Alliance
19 were candidates as well, and did not make declarations,
20 and I think that raised a point of confusion.

21 There is the argument that there is that
22 point in the law and I'm sure that you all have
23 discussed before, but it says "in the regular course of
24 business", or something.

25 **THE CHAIRMAN:** Right.

1 **MR. BURT:** I don't want to quote it. I
2 know that political parties have gone with better safe
3 than sorry and others may follow legal interpretation;
4 however, it is my belief -- it is my belief that if you
5 are in a contract, like a special contract that's
6 entering, like I'm saying if the Government of Bermuda
7 comes to your office and, you know, buys a camera, then
8 that's not entering into a contract. Yes, you're
9 performing a transaction but it's not entering a
10 contract.

11 But if an individual has a signed
12 contract with a Government Department, I believe that
13 there is no doubt that that is a contract with that
14 Government Department, or with the Government.

15 So, whether it be in the -- when we say
16 the normal course of business, there is the question of
17 what the interpretation of normal course of business
18 is. But I think that -- I don't believe that there is
19 any grey area when we're speaking about actual
20 contracts and, as I said, my IT consulting company had
21 contracts with the Government of Bermuda and I was sure
22 to declare that.

23 **THE CHAIRMAN:** Okay.

24 **MR. BURT:** In both instances, 2010 when
25 I was appointed to the Senate and upon nomination in

1 2012.

2 **THE CHAIRMAN:** Right. But to your
3 knowledge, was there any discussion within the
4 Progressive Labour Party about whether or not people
5 may have had contracts that were not required to be
6 declared?

7 **MR. BURT:** There was discussion.
8 I cannot recall what the discussion was and I wish I
9 could be more helpful.

10 I know there were certain individuals
11 that said, said that, Oh, do I need to declare
12 something, and when it went to our legal time they
13 were, like, No, because it was an issue of I did this
14 or did that, it wasn't actually a contract, nothing
15 that went out to RFP, nothing that was a contractual
16 obligation, nothing that was -- something that was
17 signed, it was just kind of like, Oh, um, can you -- I
18 think it was Darius Tucker had done a small job for
19 Bermuda Housing Corporation, or something like that, --

20 **THE CHAIRMAN:** Right.

21 **MR. BURT:** -- and that's the normal
22 course of business, as opposed to an actual contract.

23 **THE CHAIRMAN:** Right. But anyone who
24 had a signed contract was required, under the PLP --

25 **MR. BURT:** Mm-hmm. Anyone, yes,

1 absolutely.

2 **THE CHAIRMAN:** And that is what was
3 done in 2007 by both parties.

4 **MR. BURT:** Yes. As I said, in 2007
5 there was only one individual that fell underneath that
6 area, which was at the time candidate Zane DeSilva; and
7 I don't recall how many we declared in 2012, whether it
8 was three or whether it was four.

9 **THE CHAIRMAN:** Okay. And there were 20
10 for the UBP.

11 **MR. BURT:** I can't recall the number
12 precisely.

13 **THE CHAIRMAN:** There were more than
14 three or four.

15 **MR. BURT:** Absolutely. There was about
16 20. It was a significant number.

17 **MS. WILSON:** Mm-hmm. Okay.

18 **THE CHAIRMAN:** Questions? I know you
19 just walked in, but --

20 --- off the record comments

21 **MS. ATHERDEN:** Just two quick
22 questions.

23 To your recollection, do you remember
24 when there was this clarification made with respect to
25 the 10 per cent as being --

1 **THE CHAIRMAN:** Let me. That was the
2 minimum threshold for ownership in a company which
3 required one to declare one's interest in a contract.

4 **MR. BURT:** Oh?

5 **THE CHAIRMAN:** We had a discussion
6 about that yesterday.

7 **MR. BURT:** And where did that come
8 from?

9 **THE CHAIRMAN:** That's contained
10 somewhere in the Parliamentary --

11 **MS. WILSON:** Yeah, in the Legislation.
12 Parliamentary Legislature (Qualification and
13 Disqualification) Act 1958.

14 **MR. BURT:** Ah, yes, I know that Act
15 too.

16 **THE CHAIRMAN:** Sorry. Go ahead.

17 **MS. ATHERDEN:** No, no. I was just
18 trying to ask you whether you were aware of that.

19 The only reason I say that is because,
20 you know what Bermuda's like, people can have ownership
21 and they can come up with different business
22 arrangements and those business arrangements could then
23 turn around and although their involvement could be the
24 same, they could still be involved, from a business
25 relationships they could have more or less, and because

1 this issue -- and I know many companies started to make
2 people realise that 10 per cent was something which was
3 deemed to be more material than just the fact that you
4 owned something, so I just wondered, you know, whether
5 you were aware of that clarification.

6 **MR. BURT:** I can't say I -- I'm not
7 going to tell you that I was fully aware. I know that
8 I have read the Legislature (Qualification and
9 Disqualification) Act, so I'm not -- as I say, I didn't
10 review anything before I came to this meeting
11 specifically, but now that you mentioned the
12 specifically Act that it's in, I know that I have read
13 that Act through to state the various things.

14 **MS. ATHERDEN:** No, no, and the only
15 reason I was saying that is because with -- it's
16 difficult to make a comparison with 2007 with 2012
17 unless one --

18 **MR. BURT:** There was no chance in the
19 Act in between the times, no. The Legislature
20 (Qualification...), it would say when the thing was
21 amended and the amendments were a while.

22 **MS. WILSON:** Yeah, that was in June.
23 That's why I wondered what you meant by clarification.

24 **MR. BURT:** I'm certain there were no
25 amendments between 2007 and 2012, because the PLP would

1 have done that, and I don't believe that there was any
2 amendments to the Legislature (Qualification and
3 Disqualification).

4 I mean, from my look back on -- in, you
5 know, from the memory of the 2007 election campaign, as
6 I said, there was just a large amount of declarations
7 which were made under that Act, that were made under
8 that Act, that appeared in the newspaper seven days
9 after nomination day.

10 **MS. WILSON:** It was last amended in
11 1984.

12 **MS. ATHERDEN:** Okay. But, as I say,
13 persons change their business arrangements, so just
14 because they had something in 2007, one's not able to
15 know whether their change in business arrangements
16 meant that they were no longer required to do it.

17 **MR. BURT:** Absolutely. And I'm not in
18 any way, shape or form stating that there are people
19 that should, that shouldn't. I'm just stating for the
20 record that there were people who were on the ballot in
21 2007 and there were people on -- the same people on the
22 ballot in 2012. There were people in 2007 that
23 declared an interest and they did not declare the
24 interest in 2012. That, I'm saying only that as the
25 fact.

