

HOUSE SELECT COMMITTEE MEETING

*Transcript of the Meeting of the
House Select Committee on Elections
held in the Library, Sessions House,
on Wednesday, 25th September, 2013
commencing at 12:00 noon.*

PRESENT:

Mr. Walton Brown, JP, MP - Chairman

Ms. Jeanne Atherden, JP, MP

Ms. Susan Jackson, JP, MP

Mr. Glen Smith, JP, MP

Ms. Kim Wilson, JP, MP

Ms. Meredith Ebbin - Clerk to the Committee

INVITED GUEST SPEAKERS:

Mr. John Barritt, former MP, former leader of the OBA

Mr. Michael William Branco, Deputy Chairman of the OBA

1 **WEDNESDAY, 25TH SEPTEMBER 2013**

2 --- upon commencing at 12:00 noon

3 **INVITED GUEST: MR. JOHN BARRITT**

4 **THE CHAIRMAN:** Mr. Barritt, thank you
5 for appearing before the Elections Committee.

6 As I did with all the other persons
7 before the Committee, I first asked people to introduce
8 themselves, your full name, and if you would indicate
9 to us what your political sort of --

10 **MR. BARRITT:** Persuasion?

11 **THE CHAIRMAN:** No.

12 **MS. ATHERDEN:** Background.

13 **THE CHAIRMAN:** Yeah, your political
14 background, when you were elected, when you left, and
15 what positions you held.

16 **MR. BARRITT:** Oh, my gosh.

17 **THE CHAIRMAN:** Persuasions are
18 necessary.

19 **MS. ATHERDEN:** You're not going to be
20 quizzed, so it's just a --

21 **THE CHAIRMAN:** Just for the record,
22 actually.

23 **MS. ATHERDEN:** To paint the picture of
24 your depth of knowledge.

25 **MR. BARRITT:** All right. My name is

1 John Barritt, that's the full name; no second third or
2 other middle names.

3 **THE CHAIRMAN:** Oh.

4 **MR. BARRITT:** I was first elected to
5 the House of Assembly in November 1993, served
6 initially as Government Whip, then I was a Government
7 Minister for two years, total two years, nine months
8 and nine days. I held two different posts during that
9 time, Minister Responsible for Telecommunications and
10 Information and then, later on, Minister for Youth,
11 Sports and Legislative Affairs, an interesting
12 combination if there ever was one.

13 Subsequently re-elected to the House in
14 '98, 2003, 2007, and during those periods of time
15 sitting on the Opposition benches, where the light is
16 better and you see more clearly, I served as House
17 Leader for the Opposition for periods of time,
18 Opposition Whip, and I was a Chairman and Panel
19 Chairman for the House of Assembly at various times as
20 well.

21 And then latterly, just prior to my
22 resignation from the House, I served as Leader of the
23 Opposition for a period of just under five months,
24 resigning in September of 2011, two years ago.

25 That's the sum of my legislative

1 involvement.

2 My political involvement runs even
3 deeper than that, but we'll stop there. I think that's
4 sufficient for your purposes.

5 **THE CHAIRMAN:** I think that's a very
6 good opening.

7 So, Mr. Barritt, you know that this
8 Elections Committee is looking at a number of issues
9 relating to elections and each of us may have different
10 areas that we want to ask you questions about.

11 I note also that you have prepared a
12 substantive submission outlining a number of areas in
13 which you propose a series of reforms and we can get
14 into that as well. In fact, I think once we get into
15 the questions you'll be able to expound on the various
16 aspects of your submission.

17 **MR. BARRITT:** Mr. Chairman, I don't
18 know how much time I have; is it half an hour?

19 **THE CHAIRMAN:** No, we've allocated
20 approximately one hour for each person.

21 **MR. BARRITT:** Okay. Because what I
22 thought I'd like to do is to run through my points,
23 clarify where I need to clarify, and then take your
24 questions, and answer.

25 **THE CHAIRMAN:** Is that what you'd

1 prefer to do?

2 **MR. BARRITT:** Yeah.

3 **THE CHAIRMAN:** Fine.

4 **MR. BARRITT:** If that's all right with
5 you.

6 **THE CHAIRMAN:** Fine. No, that's fine.

7 **MR. BARRITT:** All right. And that way
8 I will know that --

9 **THE CHAIRMAN:** You've covered
10 everything that --

11 **MR. BARRITT:** -- I've not only been
12 read but heard.

13 **THE CHAIRMAN:** Yes. That's fine.

14 **MR. BARRITT:** If I may, then,
15 Mr. Chairman, quickly -- and I gave it to you in
16 advance so I wouldn't take a long time with this.

17 There were ten points that I wished to
18 flag because I've long felt and still feel that this
19 Act, the Parliamentary Election Act 1978 and other Acts
20 that impinge or interact with that, require overhaul
21 and are in need of serious repair.

22 The first issue I've flagged for your
23 attention is that of what constitutes ordinarily
24 resident in Bermuda and what constitutes ordinarily
25 resident in a particular constituency.

1 I think there is a lacuna, as we lawyers
2 describe it, or a gap in the legislation that has also
3 evolved over time, as it's been amended at various
4 times.

5 The first one with respect to ordinarily
6 resident, and I draw your attention to it in the Second
7 Appendix, I think, where I talk about the Parliamentary
8 Election Act, where it talks about with respect to
9 section 2, subsection (5):

10 A person shall not be deemed to have
11 changed his place of residence by reason
12 only of his absence from Bermuda for a
13 period of not more than six months if he
14 intends to continue to reside in
15 Bermuda.

16 I mean, that to me seems to be outdated.
17 I mean, if a person's away on a job or away at school
18 for longer than six months, and clearly still intends
19 and regards Bermuda as his home, that person ought to
20 be allowed to come back and vote, or vote by way of
21 absentee ballot. That just needs to be improved. I
22 think that. That particular provision. Because,
23 really, I know that the Registrar has, in the past --
24 this is only my personal experience, taken the view
25 that where if someone has been off the Island longer

1 that six months but intends to return home or they're a
2 student they can vote, but actually that's, according
3 to the Act, contrary and unlawful.

4 **THE CHAIRMAN:** Contrary. Right.

5 **MR. BARRITT:** And needs to be changed.

6 The next point that I wanted to make and
7 it's one that has always concerned me, is people who
8 are ordinarily resident in a constituency.

9 The original Act, when it used to be --
10 before -- a lot of people don't realize, the 1978 Act,
11 when it was first introduced, actually was built on and
12 provided for a continuous rolling register, much like
13 the one we have now. And it was changed by amendment
14 in '79 to annual registration.

15 And when it was changed to annual
16 registration, certain provisions were dropped, which
17 made sense if you're going to make people register and
18 re-register every year. And one is that a voter -- I
19 draw that provision to your attention in a note which
20 I've highlighted under the heading "Who Can Vote" on
21 page one of the submission I had made to the Continuing
22 Legal Education series, and that was the '79 Amendment
23 which deleted the requirement of residency in a
24 constituency, for a period of exceeding three months.
25 And the reason why that was dropped, I think, is

1 because, well, if you're going to have annual
2 registration, the Register is going to change every
3 year, you're going to have accuracy for a period of 12
4 months, and there's no point in making people re-
5 register. That one was dropped.

6 When we went back to a continuous or
7 rolling register, of registrations, that provision was
8 never re-introduced. And it used to be, on the Voter
9 Declaration Form, in the original 1978 Act, that a
10 voter had to, if he was challenged, he or she was
11 challenged, had to say, Yes, I am ordinarily resident
12 in this constituency. That one's been dropped from the
13 forms that are now re -- when '79 came about, and it
14 hasn't been re-introduced. As a result of which it's
15 my view that you probably cannot lawfully challenge
16 somebody at the polls simply because they are
17 registered in the constituency but no longer living
18 there.

19 **THE CHAIRMAN:** You can't get that name
20 taken off.

21 **MR. BARRITT:** No, not on that ground
22 alone. You can for being not ordinarily resident in
23 Bermuda, if you have sufficient --

24 **THE CHAIRMAN:** But not ordinarily
25 resident in that constituency.

1 **MR. BARRITT:** But not ordinarily
2 resident in that constituency, and it is a problem, I
3 think, and I'll come on to that in a moment.

4 So those are the issues that I think
5 have to be tackled with respect to the definition of
6 what constitutes ordinary residence in Bermuda and
7 ordinary residence in a constituency.

8 The next item that I flagged for your
9 attention is that is -- and I think it's one that
10 interests this Committee, and that is that provision of
11 the Constitution, which you will find in, I think in
12 Appendix 3 I have it, but I'm sure you're familiar with
13 it by now, and that's disclosure of interest, the
14 provision in our Constitution, which says -- I forget
15 which section it is, in our Constitution Order, I'm
16 always careful to point out to people it's not a
17 Constitution, it's an Act of Parliament, the UK
18 Parliament, as subsection (6) of section 30.

19 "Subject to such exceptions and
20 limitations as may be prescribed by the
21 Legislature," -- and there have been
22 some, as I'm sure you probably are aware
23 -- "a person shall not be qualified to
24 be elected as a member of the House of
25 Assembly if he has an interest in any

1 Government contract and has not, within
2 seven days of his nomination as a
3 candidate for election, disclosed the
4 nature of the contract and his interest
5 therein by means of a notice published
6 in the (Gazette) or in a newspaper
7 published and circulating in Bermuda."

8 And subsection (8) qualifies that, that
9 a "'Government contract' means any
10 contract made with the Government or
11 with a department of the Government or
12 with an officer of the Government
13 contracting as such."

14 Now, such limitations as has been
15 prescribed are those now under the Legislature
16 (Qualification and Disqualification) Act 1968.

17 **THE CHAIRMAN:** 'Sixty-eight. Mm-hmm.

18 **MR. BARRITT:** And that, I've provided
19 what I think are the relevant provisions in Appendix 4.
20 And the one that probably causes -- I think one can
21 follow subsection (1) and subsection (2), interest in
22 a company, which, in effect, really say you have some
23 kind of control, you've got a shareholding or you've
24 got a position that you have sufficient control in that
25 company.

1 Then you come down to subsection (4),
2 which I think has always caused people some pause,
3 which is: "a person".

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

5 **MR. BARRITT:** First of all it says:
6 "a person who contracts for the supply
7 of goods or services by or to the
8 Government in the ordinary course of
9 conduct of a trade, business or
10 profession, or for the purchase, lease
11 or use of Government property upon terms
12 and conditions which are standard for
13 any member of the public, shall not be
14 deemed thereby to have any interest in a
15 Government contract."

16 **THE CHAIRMAN:** Right.

17 **MR. BARRITT:** The first thing, I want
18 to make a general comment.

19 The spirit and the letter of the
20 Constitution Order is clear, it is on disclosure of an
21 interest in a Government contract by a candidate.

22 **THE CHAIRMAN:** Mm-hmm. And what do you
23 base that on?

24 **MR. BARRITT:** The reading of the
25 Constitution Order. And it says subject to any

1 limitations that may be prescribed by the Legislature,
2 and they prescribed some in 1968, a different era and a
3 different time than the one we're in now, and practices
4 have evolved, both in law and by practice in other
5 jurisdictions on this.

6 **THE CHAIRMAN:** Right.

7 **MR. BARRITT:** And my view is that with
8 respect to that provision, when you interpret it you
9 should interpret it liberally, not narrowly; that is,
10 you should interpret it for the purposes of disclosure,
11 not for shutting down disclosure. Am I clear on that
12 point?

13 **THE CHAIRMAN:** Yes, I understand.

14 **MR. BARRITT:** And then when I read
15 that, it says "a person", not a company, it says "a
16 person".

17 **THE CHAIRMAN:** Can you just clarify
18 this one issue, then? Because when it says "a person",
19 I'm not a lawyer, obviously, --

20 **MR. BARRITT:** Yeah, you could --

21 **THE CHAIRMAN:** -- but I recall, in some
22 interpretations, that a company is also seen as a
23 person.

24 **MR. BARRITT:** Yes.

25 **THE CHAIRMAN:** So can you speak to

1 that?

2 **MR. BARRITT:** You could try and turn an
3 argument on that very point, if you wanted to.

4 **THE CHAIRMAN:** Right.

5 **MR. BARRITT:** But, you see, if you look
6 at subsection (3), it refers not to persons in there,
7 but companies.

8 **THE CHAIRMAN:** So because they spell
9 out companies in one section, then, --

10 **MR. BARRITT:** I would argue there's a
11 distinction.

12 **THE CHAIRMAN:** Okay.

13 **MR. BARRITT:** But here's the point I
14 wanted to make. Why do we want to get into these
15 arguments and go to court and the expense of having a
16 declaration on that? You have the opportunity now to
17 make a recommendation to change the Legislation to make
18 it clear beyond doubt what is required.

19 **THE CHAIRMAN:** Right.

20 **MR. BARRITT:** And this is almost 50
21 years later. In my view it ought to be done.

22 **THE CHAIRMAN:** Right.

23 **MR. BARRITT:** But if you want to argue
24 that, I'm saying I would always interpret it on the
25 basis of opening up disclosure rather than shutting it

1 down, if you leave the Legislation the way it is.

2 **THE CHAIRMAN:** Okay.

3 **MR. BARRITT:** But my view is that in
4 view of modern practices today, standards and
5 benchmarks coming out of the Commonwealth Parliamentary
6 Association, with which I'm sure you are familiar or
7 you're becoming familiar, it ought to be changed and
8 overhauled so it's beyond doubt.

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

10 **MR. BARRITT:** But here's the second
11 aspect to that that I think you need to look at and
12 it's one that I come on to.

13 **THE CHAIRMAN:** Right.

14 **MR. BARRITT:** The question is, well,
15 who enforces this? How is it enforced? How is it
16 policed?

17 There's, again, a lacuna or a gap in the
18 legislative framework. In the Constitution you jump to
19 provisions 33, which talk about how someone can
20 challenge, an aggrieved voter, or an aggrieved
21 candidate who lost, or even the Attorney General who
22 may be called in.

23 Now, I think the role of the Attorney
24 General, once it becomes a political appointment, --

25 **THE CHAIRMAN:** Changes it, yeah.

1 **MR. BARRITT:** Yes, changes, and should
2 not be viewed and should not be there as someone who
3 keeps a brief or has the opportunity to take a position
4 or provide a check and balance. It's unrealistic to
5 expect that from a political Attorney General.

6 So, well, who does enforce it and who
7 policies it? I mean, can you really expect a voter to
8 be able to take that challenge to the courts? A
9 defeated candidate? Well, they may well have a
10 grievance but how will they know for sure? What
11 evidence will they have compiled to know that a person
12 is in breach of a disclosure requirement? It's a very
13 difficult task. It really is.

14 And so what you need to do, I think, and
15 what we need to do in Bermuda, is create a body, a
16 means whereby it can be policed and enforced, and right
17 now I just happen to think it's not taken as seriously
18 as it should. And I say that because if you look at
19 the form, the nomination paper form that's in the
20 Rules, the one *nota bene* that they have, "NB", at the
21 end of it is:

22 Attention is drawn to the provisions of
23 the Legislature (Qualification and
24 Disqualification) Act 1968 which require
25 an undertaking to be given by persons

1 holding or acting in a prescribed office
2 within the meaning of the Act.

3 So attention is drawn to the undertaking
4 you have to give if you happen to hold an office
5 whereby you shouldn't serve, but no attention is drawn
6 to the provision for disclosure, which gives you an
7 idea of, I think on its face, you may think it's a
8 small point, but --

9 **THE CHAIRMAN:** No, that was raised by
10 someone earlier this week, about having it on the form,
11 the nomination form.

12 **MR. SMITH:** I did.

13 **MR. BARRITT:** It should be there.

14 **MR. SMITH:** Right.

15 **MR. BARRITT:** And what is there,
16 arguably, isn't half as important as the disclosure
17 requirement. And that needs to be amended.

18 **THE CHAIRMAN:** Can you just go back to
19 the provision in the qualifications and -- well,
20 disqualifications and disclosures Act and, as a lawyer,
21 what is your view of the interpretation that -- where
22 it says "on the same terms as any other member of the
23 public"? If you have a contract on the same terms as
24 any other member of the public.

25 **MR. BARRITT:** I've given that some

1 thought and I've had a hard time coming up with an
2 example. But I would think it's the kind of thing
3 where someone, let's say, contracts out the cleaning
4 services for offices or a particular department, and
5 it's a standard contract, there is no special provision
6 in there, whether it's one year or two years, it's a
7 fairly standard contract. That's the only thing I can
8 come up with.

9 **THE CHAIRMAN:** Mmm.

10 **MR. BARRITT:** But that sort of thing,
11 again, shouldn't be argued. As I say, the emphasis
12 should be on disclosure and the requirement ought to be
13 for disclosure, and to the extent that that Act needs
14 to be amended, it ought to be amended forthwith,
15 because I think the people of Bermuda are entitled to
16 know every interest that a person may have with the
17 Government, if they're running for Government.

18 And it's important as well, because not
19 only is there provision in the Constitution Order that
20 you must disclose it upon your nomination, when you are
21 a MP or a sitting Senator you're required to disclose
22 it within seven days of obtaining a Government
23 contract.

24 **THE CHAIRMAN:** Right.

25 **MR. BARRITT:** And arguably that's just

1 as important, if not more important, if you're a
2 Government MP.

3 May I also just say, with the
4 Qualification and Disqualification Act, taking someone
5 to court, if that's the only remedy, if that's the only
6 way you police or enforce it, is an expensive and
7 arguably cumbersome process. You have to accept that.

8 The other thing is that you have to do
9 it within a certain period of time as well, and unless
10 you've got the goods on somebody and you can catch them
11 quickly, you're going to lose that opportunity quickly
12 as well, and it shouldn't come down to that.

13 The next point that I make with respect
14 to things that require repair and overhaul in the Act
15 are the powers and duties generally of the
16 Parliamentary Registrar.

17 Again I take you back to the original
18 1978 Act when it was then a continuous and rolling
19 register as well. And I've included for your attention
20 a provision in Appendix 7, a provision that existed,
21 where it stated, in mandatory terms, 16.(1):

22 "It shall be the duty of the Registrar
23 to cause the several parliamentary
24 registers to be kept under continuous
25 review and to make such alterations

1 therein as may be required to maintain a
2 true and complete record of the persons
3 entitled to be registered therein.”

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

5 **MR. BARRITT:** You don't have that.

6 That was not re-adopted when we moved again in -- was
7 it '99 or 2000, to a continuous rolling register again.

8 **THE CHAIRMAN:** But isn't the
9 function -- isn't that function supposed to be carried
10 out by the scrutineers?

11 **MR. BARRITT:** Well, I'll come --

12 **THE CHAIRMAN:** I know they're not
13 properly established.

14 **MR. BARRITT:** I'll come on to that.

15 **THE CHAIRMAN:** Right. Right.

16 **MR. BARRITT:** Because that's where the
17 system falls down.

18 **THE CHAIRMAN:** Right. Okay. Yeah.

19 **MR. BARRITT:** But there ought to be a
20 clear statement within the Act as to what the duty of
21 the Registrar is, and to my view that duty is expressed
22 succinctly and clearly with that paragraph that I just
23 read.

24 That provision then went on to give the
25 power to the Registrar to investigate, much like exists

1 now under the amendments that came through in 2012
2 under 10A and 10B, the power to investigate and
3 approach electors to try and ascertain their true
4 residence for the purposes of re-registering.

5 **THE CHAIRMAN:** Right.

6 **MR. BARRITT:** Back then the Registrar
7 had the power to remove them completely from the
8 Register if they didn't -- if they didn't respond and
9 say where they ought to be now registered, given their
10 place of residence.

11 And when the Act was first introduced,
12 when we moved to a continuous rolling register again,
13 in '99 I'm going to say -- I don't know when it was --
14 it was under the Progressive Labour Party Government,
15 in the first term.

16 **THE CHAIRMAN:** It may have been in --
17 well, it came into effect in 2003, but I'm not sure
18 when it --

19 **MR. BARRITT:** Yes, it did. One of the
20 provisions then was the requirement to change or to
21 notify the Registrar of your change in particulars, you
22 get married or you change residence, within 28 days.
23 And there was then, when it first came to the House, a
24 subsection (2) that said if you didn't do that you were
25 going to be punished, you could be prosecuted and

1 punished, and that was dropped because it was felt that
2 that was unfair, it wasn't reasonable to do to a voter.

3 But of course what's happened is that
4 there hasn't been, as I would maintain, the scrutiny
5 and attention that ought to be given to what has
6 developed to become a -- I'm going to use the word
7 "problem", a potential problem. And I'll come on to
8 that.

9 So that's where I say the duties of the
10 Registrar, because right now if you look at 10A and
11 10B, it talks about the Registrar may require a person,
12 the Registrar may investigate, it's the permissible,
13 it's not the mandatory, that you have to.

14 **THE CHAIRMAN:** Right.

15 **MR. BARRITT:** Although you come over to
16 10B, once he has reasonable grounds to believe an
17 elector has moved, he has to follow a procedure whereby
18 they then are given the opportunity to come in, and at
19 the end of it the Registrar has the right to transfer
20 someone to his correct resident. Now, that, of course,
21 presumes that the Registrar knows the new residence.
22 Some of the time you don't know and it's hard to find
23 out where they are.

24 But these provisions, as I understand
25 it, in my conversations with the Parliamentary

1 Registrar, came into effect just prior to the 2012
2 election itself, and the office hasn't had sufficient
3 time to know how effective that tool will be. But in
4 any event, I would strengthen his powers and his
5 duties.

6 **THE CHAIRMAN:** Mmm. Okay.

7 **MR. BARRITT:** Because I come on to this
8 idea of the scrutineers, which was always in the
9 original Act as well, whereby two scrutineers will be
10 appointed for each constituency and they'll go down and
11 out on the highways and the byways and knock on doors
12 and find out who's moved and who hasn't.

13 Somebody must have been dreaming when
14 they put that provision in there, because you have a
15 hard time, in my experience, getting MPs to do that,
16 let alone scrutineers. And even if they're going to
17 pay them \$15 each. And so -- and where it becomes, as
18 I say, a lost cause and a stumbling block, if, as the
19 Act is currently constituted, the Parliamentary
20 Registrar is required to consult with them and to act
21 on their advice, if there aren't any in existence, he's
22 on his own and he can very well take the view, when
23 people are drawn to his attention who may be -- I'm
24 going to use the word, it's a good one, "mis-
25 registered", --

1 **THE CHAIRMAN:** I think that's the term
2 he used too.

3 **MR. BARRITT:** Yeah. -- you cannot, you
4 cannot -- he can feel that I can't do anything, because
5 I'm powerless to do anything, because I can't consult
6 with these people, the scrutineers, and I'm on my own,
7 and he gets a little nervous. Why does he get nervous?
8 Because he doesn't want to disenfranchise anybody
9 either, and I understand that.

10 **THE CHAIRMAN:** So what's the solution?

11 **MR. BARRITT:** I'm coming on to the idea
12 of an independent electoral commission.

13 **THE CHAIRMAN:** Okay.

14 **MR. BARRITT:** And I think that -- I
15 think the solution is, first of all, not to narrowly
16 confine the Registrar to having to consult and act with
17 scrutineers. Look, as a Member of Parliament, I used
18 to go down there all the time. I wasn't looking for
19 \$15 for every meeting, which scrutineers get, I was
20 looking to get the Register corrected. But he wasn't
21 necessarily obliged to listen to me. He often would
22 say, You've got to go through your scrutineers. And,
23 you know, who wants to be, as a candidate on the move,
24 who wants to be hum-bugged with having to go through
25 another layer of bureaucracy, scrutineers? It's

1 unnecessary. That's my view.

2 If you do have them, fantastic, but make
3 it optional. It doesn't have to be mandatory.

4 And it's so important to have an
5 accurate Register. It's always been my belief, based
6 on my constituency, the one I used to represent, that I
7 could always find an error of five to ten per cent,
8 people who had -- not always died, that was a rare
9 occurrence, I would say, were still on the Register,
10 having died, but who had either moved off the Island or
11 moved constituency. I didn't know where they'd gone.
12 And the people who'd moved into the house didn't
13 necessarily know where they'd gone. So what do you do?
14 You give them to the Registrar and you hope that he can
15 find out.

16 But come polling day, if these people
17 want to vote, and they can only vote in your
18 constituency, and as I said earlier, the law says if
19 you're on the Register come polling day, in a
20 particular constituency, you're entitled to vote in
21 that constituency, having made it to that point.

22 And there's a whole process of
23 objections, to object and appeal and to do that. That,
24 too, is cumbersome. I mean, people are entitled to
25 have their day and to be heard, but something's got to

1 be done because the real crunch comes when the writ is
2 dropped, because that's when you finally have
3 everyone's attention, --

4 **THE CHAIRMAN:** Yup.

5 **MR. BARRITT:** -- in terms of people are
6 focussed on that list and who's going to vote and who's
7 not, and, more importantly, who's going to vote for me
8 and who's not, and the vote for me's get more attention
9 than the votes against.

10 And you have that week as well, where
11 people can register and re-register, and I have to tell
12 you, it's with some concern that I look at the numbers,
13 and I put them in here from the last election, that I
14 got from the Office of the Parliamentary Registrar, as
15 to the movement that happens during that week. How can
16 they possibly keep up and check on everybody, when you
17 have, in that week alone, he told me, 3,376
18 registrations, in the week leading up to the election.

19 **THE CHAIRMAN:** Really?

20 **MR. BARRITT:** Walk-ins, that's where
21 people brought their forms in, were 1105, of which he
22 told me 772 were actual new registrations, i.e., 18-
23 year olds, I presume, or 409 change of registrations,
24 where someone had moved constituency or they'd changed,
25 they'd got married. And on line there were 2,271

1 registrations, of which 1,112 were new and 1159 were
2 changes in registration. Those are big numbers.

3 **THE CHAIRMAN:** That's all during that
4 week?

5 **MR. BARRITT:** In that one week, you
6 know, where you have the opportunity --

7 **THE CHAIRMAN:** Maybe people just held
8 off dropping their forms off, I guess.

9 **MR. BARRITT:** Well, there's that, plus
10 MPs are scrambling now, they know people, Hey, look,
11 man, you're gonna vote for me, got to get you over
12 here, let's get you in. And some people do it on line
13 and some people do it on walk-in, and you get that kind
14 of movement. Because attention is finally focussed,
15 the election is here, and before that it's all talk.
16 And that's --

17 **MS. WILSON:** With five staff.

18 **MR. BARRITT:** Yeah. And with a limited
19 amount of staff, you have to wonder. I mean no
20 criticism of the people who are there when I say this.
21 How do they manage, how do they cope? It's possible
22 for things to slip through. And that's, you're talking
23 in total 7-1/2 per cent of the final voting electorate.

24 **THE CHAIRMAN:** Right. Right.

25 **MR. BARRITT:** Now, if you translate

1 that out into constituencies, and you know how much
2 constituencies are won or lost by, this could have a
3 significant impact. And it's kind of like the dirty
4 little open secret that everyone has, that if I stumble
5 upon somebody in my district who's registered
6 elsewhere, and they may vote a certain way, people
7 aren't as, let me just say, as forceful as they might
8 otherwise be, and it is possible, in the current system
9 we have, to cherry pick which constituency you want to
10 be. Is my vote more valuable, when you talk about one
11 man one vote of equal value, but in some constituencies
12 a vote is more valuable than in another. It is.
13 Because, if you know you're in a marginal seat and you
14 are committed to -- sorry. You're registered in a
15 marginal seat and you're committed to that, to a
16 particular party, and you're now living in a safe seat
17 that's held by the other party, or even your own party,
18 you keep the vote where it has more influence, more
19 power.

20 **THE CHAIRMAN:** Yeah.

21 **MR. BARRITT:** And that kind of cherry
22 picking can go on under our current system. I've got
23 no evidence of it happening, --

24 **THE CHAIRMAN:** Oh, I'm sure it does,
25 yeah.

1 **MR. BARRITT:** But, yeah, I'm sure it
2 does, too. And as an officer of the court when I
3 usually go round to people I tell them, Well, let me
4 tell you what the Act requires you to do, and here's
5 the form. But I can't make them fill it out and I
6 can't make them take it in. And I can notify the
7 Registrar, which used to be by my practice. But it
8 happens.

9 **THE CHAIRMAN:** Yeah.

10 **MR. BARRITT:** And the next thing that I
11 wanted to come on to was, you know, this makes the
12 running of an election very difficult, I think, when
13 you've got re-registration and registrations going on
14 for the same time and you've got a writ period going,
15 and you will see in my brief that I did for the Bermuda
16 Bar, when I tried to calculate, well, what is the
17 minimum period, and what should be the period for an
18 election? I can't say for every person you'll find a
19 different answer, but it does vary, in terms of what's
20 required.

21 My analysis, I suggested to the
22 Parliamentary Registrar that it has to be 42, and I did
23 that on the base -- 42 days between the issue of the
24 writ and the day of the election, because the writ he
25 delivers to the returning officers on Nomination Day,

1 according to the Act, must be the Final Register. So
2 all registrations, all appeal periods ought to have
3 passed when you hand that Register over on Nomination
4 Day and there are no further changes.

5 **THE CHAIRMAN:** Right.

6 **MR. BARRITT:** And if you do that and if
7 Polling Day must be 14 days from Nomination Day, I
8 added 28 and 14 to get to 42.

9 **THE CHAIRMAN:** Mmm.

10 **MR. BARRITT:** You might think that's a
11 long period to have an election campaign. I don't
12 know. But it would be helpful, I think, if the Act
13 were amended, to set a period of time so that there's
14 no longer -- the Registrar doesn't have to guess, he
15 doesn't have to, or she doesn't have to work with the
16 Premier of the day as to what's acceptable or what's
17 not, and you don't get anyone trying to game the system
18 to have a minimum period, which is probably the worst
19 possible thing to have.

20 **THE CHAIRMAN:** Right.

21 **MR. BARRITT:** I think in the elections
22 we have had under the current system, we haven't had
23 the minimum period, it's been something less than what
24 I call the more desirable maximum under what's allowed
25 here, but it hasn't been an unfair minimum period of

1 time.

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

3 **MR. BARRITT:** And this is important,
4 particularly with respect to objections, and this is a
5 general comment I want to make. There's only ever been
6 one case where someone has challenged an election in
7 Bermuda.

8 **THE CHAIRMAN:** An election or...?

9 **MR. BARRITT:** Yeah, an election.

10 **THE CHAIRMAN:** In a constituency, you
11 mean. Right.

12 **MR. BARRITT:** Yeah, in a constituency.
13 It think it was in St. George's. *Ernest "Dickie" Drew*
14 *and others.*

15 And the reason this case is important
16 for me to bring to your attention -- just stay with me,
17 I know I've got it here somewhere -- is the comment
18 that was made by the then Chief Justice, Sir James
19 Astwood, with respect to the case.

20 He said: First of all, there are
21 minimum periods prescribed -- we've touched upon this
22 already when you want to challenge somebody, you have
23 to stick to them and there's going to be no extension.

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

25 **MR. BARRITT:** Because we've got to have

1 certainty when it comes to elections.

2 **THE CHAIRMAN:** Right.

3 **MR. BARRITT:** Then he also went on to
4 say this:

5 It has to be assumed that the Register
6 has been properly and regularly
7 compiled. If this were not the case it
8 would be almost impossible to conduct an
9 election. Moreover, the '78 Act makes
10 the Parliamentary Register final after
11 publication and delivery to the
12 returning officers. It is my opinion
13 that petitioners cannot question the
14 Parliamentary Register or question the
15 preparation or publication of the
16 Register in these proceedings by these
17 representation petitions. The manner
18 and the time for doing that is all
19 provided for in the '78 Act. The
20 representation petitions are for the
21 purpose only of enquiring into the
22 conduct of polls on election day. There
23 are other legal procedures which may be
24 followed if irregularities are
25 discovered in the Register before

1 elections are held, using the Register.

2 [as read]

3 So it's really important that people
4 know that if there are challenges, if there are
5 concerns, they have to be dealt in that appeal -- that
6 objection and appeal period, and if you don't do it,
7 arguably you've lost your right.

8 In any event, you challenge somebody on
9 the day, they swear an affidavit, the vote counts.

10 **THE CHAIRMAN:** Right.

11 **MR. BARRITT:** Then you're down to
12 prosecuting people if you can prove that they've
13 fraudulently lied. You might think, well, that's
14 nonsensical.

15 The other thing I wanted to -- so I've
16 tried to argue, as I say, for why it would be good to
17 have a set period --

18 **THE CHAIRMAN:** Right. Period.

19 **MR. BARRITT:** -- for an election
20 campaign.

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

22 **MR. BARRITT:** The next thing I think it
23 would be helpful if we had fixed term elections. And
24 just to be clear, that means that you have a date that
25 people know there's going to be an election, so

1 everything works back from that day. Makes it a lot
2 easier to manage, I'm sure, from an administrative
3 point of view, over at the Office of the Parliamentary
4 Registrar, and probably also for people generally.

5 And when I talk about fixed-term
6 elections, I do not mean, and neither do I think you
7 can say that that won't allow for early dissolution of
8 the House on the basis of a no-confidence vote --

9 **THE CHAIRMAN:** That was my question.

10 **MR. BARRITT:** -- or you lose a money
11 bill. Those things are sacrosanct and ought to be
12 kept, for obvious reasons. But otherwise, there is, in
13 my view, no constitutional requirement required, you
14 allow those things to continue, to go ahead and have a
15 fixed-date election. And I think it would be
16 exceedingly helpful, take a lot of the, what I call the
17 ugly side of politics out of election campaigns.

18 The next point that I make is with
19 respect to advanced polls.

20 **THE CHAIRMAN:** Yes.

21 **MR. BARRITT:** I mean, I've always
22 thought that was a laugh. If you can't turn up at the
23 polls on polling day because you're incapacitated, get
24 round to the office of the Chief Medical Officer, get
25 the certificate and then produce the certificate to the

1 Parliamentary Registrar, and then you get your vote. I
2 mean, if a person's incapacitated and can't get there,
3 they can hardly go to the Office of the Chief Medical
4 Officer. That needs to be changed, you know, I mean,
5 really. I don't know how many we're talking about.
6 The Parliamentary Registrar may have a better answer,
7 but I believe he represented to you that --

8 **THE CHAIRMAN:** Hundreds.

9 **MR. BARRITT:** Well, let the returning
10 officers visit these people. There's got to be some
11 way to do it, if you're --

12 **THE CHAIRMAN:** I think the current
13 practice is to visit rest homes of five or more people.

14 **MR. BARRITT:** Yes. Yes.

15 **THE CHAIRMAN:** But less than five, they
16 don't do it.

17 **MS. ATHERDEN:** But also I think we're
18 not recognizing that a lot more people are being cared
19 for at home, just through the practical aspects of not
20 being able to afford rest homes, et cetera.

21 **MR. BARRITT:** Yeah. And, you know,
22 again, I make the point of having a fixed-date election
23 makes it all easier to put that sort of thing in place,
24 and it ought to be in place, because we ought to be
25 enfranchising, not disenfranchising people. We're all

1 going to live longer, according to all the stats, and
2 if I'm bedridden I might still like to have my -- or
3 incapacitated, I might still like to have my vote,
4 thank you very much.

5 **THE CHAIRMAN:** You'll just be able to
6 press a button, by that time.

7 **MR. BARRITT:** May be. May be, by then.
8 May be. And I'm not an expert on that area. We'll
9 come on to that with absentee -- sorry, before we
10 finish with advance polls.

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

12 **MR. BARRITT:** The other thing, the last
13 time around this was -- it was amended to allow for two
14 or three days voting for people who were travelling.

15 **THE CHAIRMAN:** Yes.

16 **MR. BARRITT:** Look, if people are
17 travelling and they can prove it and they can go into
18 the office and vote in a booth, it should be any day.
19 Goodness gracious. You can do that at the Office of
20 the Parliamentary Registrar. They'll be able to set up
21 a booth, control, satisfy --

22 **THE CHAIRMAN:** They have a booth
23 already.

24 **MR. BARRITT:** Yes. Satisfy themselves
25 who qualifies and who doesn't and let them vote. Right

1 up to, I don't know, whatever day you want to have it
2 before an election. But before it used to be, what, on
3 one day a week before. Then we've opened it up to a
4 couple of days. Let's do the right thing and do the
5 whole and proceed to give people the right.

6 I've already touched upon voters being
7 challenged on the day.

8 Then I come on to absentee ballots.
9 Look, people always say, Well, I don't know how
10 trustworthy they'll be, you know. And I'm not a
11 complete convert yet to on-line push a button, that
12 worries me. Even if you all do on-line banking
13 sometimes, I'd be surprised if no one's ever found that
14 someone's gotten into their account and done something
15 wrong or charged something to their account, and it
16 worries the heck out of me, notwithstanding all the
17 security measures that the bank put in place, and then
18 they keep updating all the time, to stay ahead of
19 hackers.

20 **THE CHAIRMAN:** Right.

21 **MR. BARRITT:** So I'm not going to go
22 there, I'm not an expert. But what I will say with
23 respect to postal balloting, look, this is the day of
24 Fed-Ex, right? If a person is keen to have their vote
25 and they're going to be abroad, let's say they're a

1 student or they're working abroad and they're entitled
2 to vote, they can apply to the Registrar, he can Fed-Ex
3 the form and the package to them, with a clear set of
4 instructions that say, You are to appear before a
5 Notary Public -- these are people who are held in high
6 regard who can be trusted; you will vote -- you will
7 identify yourself, you will produce some identification
8 photo that proves you are who you say you are; you then
9 vote in privacy; you put it in this package, this
10 envelope that will be returned to me; the Notary Public
11 then must seal it and sign it, and it gets returned by
12 Fed-Ex. Straightforward, to my way of thinking. If
13 someone is prepared to undertake the cost of that, I'm
14 not saying it should be thrown on Government, make it
15 happen.

16 **THE CHAIRMAN:** Right.

17 **MR. BARRITT:** Make it happen.

18 Finally I come on to the desirability of
19 having an independent electoral commission. I've
20 touched upon some of the challenges that the Office
21 faces down there.

22 My view is that we need one much along
23 the lines of the Boundaries Commission, in this sense,
24 that it will be comprised of equal numbers of
25 appointees by the currently two political parties, and

1 two independents. So the political parties will have
2 representation, but the independents will obviously
3 have the deciding vote, should there be any contest.

4 **THE CHAIRMAN:** Right.

5 **MR. BARRITT:** And they can oversee the
6 Act and its administration. And they could become the
7 body to which appeal is made, for instance, --

8 **THE CHAIRMAN:** On any of these matters.

9 **MR. BARRITT:** That's right, disclosure
10 of interest. Now you've finally got a body in place on
11 the ground, a lot more practical, that can move and it
12 gets the necessary powers to investigate as well. It
13 gets the necessary powers to investigate.

14 And it's important that the Office of
15 the Registrar, its funding and control come out from
16 executive control. This Commission is the one that
17 ought to be making recommendations with respect to
18 improving and repairing the Act, and those
19 recommendations and improvements should go directly to
20 the House of Assembly, not via the Cabinet. This is
21 one of those, quote-unquote, departments that ought to
22 be reporting directly to the Speaker, that is to the
23 House of Assembly, with recommendations, and reforms
24 either don't get held up or cherry picked down at the
25 Cabinet Office. That's my view.

1 The other thing is that an independent
2 Electoral Commission can then take on things like
3 political broadcast directions.

4 In my letter it says "requirements", but
5 that's a mistake there, political --

6 **THE CHAIRMAN:** Campaign financing?

7 **MR. BARRITT:** And campaign financing.
8 That's in my recommendation as well, that the
9 directions as to control political broadcast are very
10 important. Been through a lot of changes over the
11 years. But their enforcement is left to a committee
12 appointed by the Government of the day. My experience
13 has been both ways, that turns out to be a bit of a
14 sham. People complain, they want instant action. And
15 you can delay things until after the election, and
16 then, at your leisure. But by then the offence has
17 already been committed. And you might think, well, as
18 people have, that's broadcasting, what about the print?
19 Well, an Electoral Commission can speak to that and
20 perhaps have the power to make rules to govern that as
21 well, up to the particular day.

22 And then you come on to campaign
23 finance, more and more jurisdictions, modern
24 jurisdictions are moving to controlling what money is
25 spent on an election and how it's spent.

1 When I say how it's spent, in Bermuda,
2 for instance, you can say, as per constituency, you are
3 entitled to spend up to X-thousands of dollars, per
4 constituent. Might be a good idea, because then an MP
5 will have money to spend to actually try and make
6 contact with constituents and persuade them, which is a
7 good thing, rather than just having all the money spent
8 on print ads and on the radio and TV stations. And
9 there are controls that can be put in place. We
10 wouldn't be inventing the wheel, guys. You could look
11 at some comparable jurisdictions and bring these down
12 fairly quickly and make them work.

13 And, again, an independent Electoral
14 Commission, I mean, it's efficacious. I love that
15 word, it sounds so Bermudian. The efficacy of doing
16 something like that. It is, I think, patent and clear
17 today for anyone who's able to -- and no disrespect to
18 any of you -- take off their partisan hats and decide
19 what really the best way of having a fair match, a fair
20 campaign, one party competing against -- one idea
21 competing against another idea or series of ideas.

22 And those, Mr. Chairman, thank you for
23 allowing me to do it -- I won't sing the song, but
24 allowing me to do it my way.

25 **THE CHAIRMAN:** No, that's been very

1 helpful. Yes.

2 **MR. BARRITT:** And now I'm happy to
3 take...

4 **THE CHAIRMAN:** Well, you've covered a
5 wide range of issues, some of which we've had occasion
6 to reflect on before, and obviously we're going to look
7 at many of the issues that you've raised, we will look
8 at those in more detail and come to some positions,
9 from this Committee's standpoint.

10 In terms of the issue of declaration of
11 interests, and you've been very clear in your
12 interpretation of the Constitution and the --

13 **MR. BARRITT:** I'm sure you'll find a
14 different one.

15 **THE CHAIRMAN:** We may.

16 **MR. BARRITT:** Yeah.

17 **THE CHAIRMAN:** But beyond the actual
18 legislation, I want to get you to speak to the practice
19 of the United Bermuda Party, because you ran in three
20 or four elections.

21 **MR. BARRITT:** Mm-hmm.

22 **THE CHAIRMAN:** To the best of your
23 recollection, were there declarations made in
24 accordance with the Constitution?

25 **MR. BARRITT:** Mr. Chairman, I've always

1 wanted to do this. On the advice of counsel I decline
2 to answer that question on the grounds that it may
3 incriminate me.

4 That's a joke. I'll happily answer the
5 question. I've always wanted to do that, tap the
6 microphone as you see them in --

7 **THE CHAIRMAN:** Well, you didn't tap the
8 microphone.

9 **MS. JACKSON:** Yeah, he did.

10 **MR. BARRITT:** I did. I did. Just make
11 sure you put "lol" after that, or -- I said it was a
12 joke.

13 **MR. SMITH:** Is that lots of love?

14 **MR. BARRITT:** That too.

15 When I first started out, a lot of this
16 was controlled by central office at the United Bermuda
17 Party, and you'd be required to disclose -- to fill out
18 the form and disclose this, that and the other.

19 I remember discussions which we used to
20 have over something -- like Legal Aid, for instance,
21 and it was decided rather than wrestle with how we
22 interpret the Act, whether Legal Aid, just declare the
23 thing. What's the big problem? Declare what interest
24 you have in anything that may be connected or you may
25 be seen to be getting revenue from Government, even if

1 you don't practise and take Legal Aid, but you're a
2 partner in a firm that does have Legal Aid.

3 So that was a view that was taken for
4 yonks, and that's the only concern I had in terms of
5 contracts, so I wasn't involved in wider discussions.

6 But I was involved more directly in
7 2007, --

8 **THE CHAIRMAN:** Okay.

9 **MR. BARRITT:** -- as part of the
10 campaign team, and at that time the United Bermuda
11 Party was campaigning heavily on the need for
12 transparency, openness and disclosure. And, again, we
13 looked at that Act, and rather than argue 'til the cows
14 come home what ought or ought not to be disclosure, a
15 decision was taken that we will disclose any and all
16 interests, direct or indirect --

17 **THE CHAIRMAN:** That decision was made
18 at what level?

19 **MR. BARRITT:** Campaign level, I mean,
20 I -- to the best of my recollection, Mr. Chairman.

21 **THE CHAIRMAN:** Okay.

22 **MR. BARRITT:** I can't remember a
23 precise meeting. But I was involved in that and I know
24 that was my view, so I'm telling you -- and my view, I
25 think, prevailed, because we produced an ad with the

1 photographs of all the candidates who had any interest
2 in a Government contract, and we did that trumpeting it
3 as, here, we're for disclosure and transparency and
4 this is what it means.

5 **THE CHAIRMAN:** Right.

6 **MR. BARRITT:** And then it was flipped
7 on us by the Progressive Labour Party because they then
8 said, See how well Bermuda's doing under the PLP, even
9 these guys have contracts with the Bermuda Government.

10 **THE CHAIRMAN:** Right.

11 **MR. BARRITT:** They have no cause for
12 complaint, on an economic front.

13 **THE CHAIRMAN:** Yes.

14 **MS. JACKMAN:** I have a question,
15 Mr. Chairman.

16 **THE CHAIRMAN:** Sure.

17 **MS. JACKMAN:** So my question is that I
18 haven't really been able to get any clear indication of
19 Government's role in disclosure. So it seems to me
20 that political parties can do anything that they like,
21 and you've got the full-page ad, other people had, you
22 know, all kinds of committees set up, whatever. But
23 what is your interpretation and understanding of
24 Government's role to make sure that candidates
25 understand and follow all the procedures regarding the

1 disclosure of interests?

2 **MR. BARRITT:** My understanding and my
3 experience is that Government doesn't play a role, that
4 that's the gap or the lacuna in the system that we
5 currently have, both in the way that it operates and in
6 the Legislation. You jump to disclosure, you know,
7 sort of on the honour system, to if someone hasn't
8 disclosed, then chase them, through the courts. Surely
9 there's something -- you know, this is important, we
10 can agree on, and get the halfway house, and that's why
11 I recommend the independent electoral commission.

12 And the other thing is we can revise the
13 law so it's pretty clear -- well, clearer.

14 **THE CHAIRMAN:** Yes.

15 **MS. ATHERDEN:** I guess, you made a
16 statement which I just want to clarify. You were
17 talking about 2007, and I think you said, because, you
18 know, the intent was for transparency and disclosure,
19 but you said rather than argue, et cetera, does that
20 mean that there was still some sort of discussion or --
21 as to whether there was a requirement, depending on the
22 interpretation, in terms of --

23 **MR. BARRITT:** My recollection is we
24 didn't spend a lot of time on that. We used it as a
25 campaign tool, if you will, part of the campaign.

1 Look, not only do we believe in this, but we're doing
2 it, and we used it for campaign purposes as well. But
3 I don't know that we spent a lot of time arguing that.

4 **MS. ATHERDEN:** Okay.

5 **MR. BARRITT:** I remember looking at it,
6 as I always have, and said, Gee, this could be better
7 expressed, but, you know, that's 45 years ago, a
8 different era, a different time. And then maybe it was
9 thought progressive at the time.

10 **THE CHAIRMAN:** Right.

11 Kim? Glenn?

12 --- off the record comments.

13 **MS. WILSON:** But this is very useful.

14 **MR. BARRITT:** Thank you. I hope you
15 find the CLE thing. I mean, going through that Act is
16 not easy, and all the different interconnecting pieces.
17 I hope you find that a handy guide. I know people at
18 the lecture that I did, afterwards they thought -- they
19 were amused in some parts -- well, one part.

20 If you look at one thing. There's
21 always something of amusement in any piece of Bermuda
22 Legislation, I find, if you've got a sense of humour.

23 If you look under -- now, where it is?

24 Yeah, under "Offences", I think it is.

25 No, it's when you qualify to be a candidate.

1 Yeah, you can't be a candidate if you've
2 exercised undue influence on a voter or bribery or
3 fraud, but you can be a candidate -- or you can't be
4 for supplying intoxicating liquor to a voter, or
5 carrying an offensive weapon at a polling station.

6 **THE CHAIRMAN:** You can be or you cannot
7 be.

8 **MR. BARRITT:** Can.

9 **THE CHAIRMAN:** You can.

10 **MR. BARRITT:** Yeah. Can't be. Sorry,
11 can't be. There's an inconsistency there.

12 **MS. ATHERDEN:** Yeah, there was
13 something, I must admit, it was interesting --

14 **MR. BARRITT:** I can't remember which it
15 is, but it's amusing how they cherry picked, some
16 offences, like, are okay, to be a candidate, but some
17 aren't, under the Parliamentary Election Act.

18 **MS. WILSON:** Yes.

19 **MR. BARRITT:** And it's all very quaint,
20 antiquated.

21 **MR. SMITH:** Mr. Barritt, you've
22 discussed, in regards to the scrutineer process, which
23 clearly is not working at present, and --

24 **MR. BARRITT:** I understand it never
25 has, so let's not talk about at present, I mean, it

1 just hasn't. Maybe in '68. My memory doesn't -- my
2 involvement doesn't go back that long, but to the
3 extent that I've been involved, it just -- it just
4 hasn't.

5 **MR. SMITH:** Well, having said that and
6 obviously with the next Boundaries Commission, which I
7 believe is, what, in the next five to six years, is it?

8 **MR. BARRITT:** Something like that.

9 **THE CHAIRMAN:** Five, yeah.

10 **MR. BARRITT:** There's a minimum and a
11 maximum.

12 **MR. SMITH:** Would you support a
13 registration of all voters before, or after that
14 Boundaries Commission takes place?

15 **MR. BARRITT:** After it takes place?

16 **MR. SMITH:** Or before. To straighten
17 out the Register, because the scrutineers thing is not
18 working.

19 **MR. BARRITT:** That's one possibility,
20 but I would prefer this Committee focussed on how you
21 can repair the Act to get the Registrar to do the job
22 now, and once anything's done, in the future to
23 continue to do the job, is that that provision said in
24 the original '78 Act, keep under continuous review,
25 have the power to and the duty to keep under continuous

1 review and to make those alterations.

2 Yeah, a re-registration would be
3 helpful, and by that I don't mean you have to
4 necessarily de-register everybody who's there, but do a
5 complete new registration to do it, it's an expensive
6 proposition, of course, and I wouldn't leave it to
7 scrutineers.

8 **MR. SMITH:** Correct.

9 **THE CHAIRMAN:** But a properly
10 structured electoral commission, with full powers,
11 relevant to monitoring and assessing and conducting
12 elections, could address many of the issues that you
13 have raised.

14 **MR. BARRITT:** I believe so.

15 **THE CHAIRMAN:** And a key part is it
16 would have a level of independence from the executive
17 branch.

18 **MS. ATHERDEN:** Yeah.

19 **MR. BARRITT:** Yeah. Which the Office
20 is meant to be. I mean, over the years I've noticed
21 how it's been either, for the purchase of the Budget
22 Debate, slotted under a particular Minister, and
23 sometimes it's changed, it's gone from the Premier to
24 the Minister for Justice, for Legislative Affairs and
25 that. It shouldn't be under any. It should be direct

1 to the Speaker of the House of Assembly.

2 **THE CHAIRMAN:** How would you address
3 the issue of an independent electoral commission
4 making, or bringing forward proposed legislative
5 changes that may be inconsistent with the Government
6 priorities? Because the Government of the day brings
7 forward Legislation, but so, too, can opposition
8 parties and independents. But do you have any concern
9 that there could be a proposed set of Legislation
10 brought forward by the Electoral Commission, with these
11 new powers that you outlined, that would run against
12 some of the priorities of the Government, or against
13 the direction that the Government wanted to go in.

14 **MR. BARRITT:** Oh, so what? They put
15 their things forward, the House, by majority, votes yea
16 or nay, the Government puts theirs forward and the
17 House votes yea or nay by majority as well. And it
18 will get decided on the floor of the House.

19 But it's wrong, in my view, to have
20 recommendations come for the Parliamentary Registrar,
21 let's say through the Commission, to the Cabinet, where
22 they sit and nothing happens, or they cherry pick and
23 you never know what was taken up and what wasn't.

24 **THE CHAIRMAN:** So, have the Electoral
25 Commission propose what changes they think are best for

1 the Country.

2 **MR. BARRITT:** Yeah.

3 **THE CHAIRMAN:** And then let the House
4 decide, one way or the other.

5 **MR. SMITH:** That's correct.

6 **MR. BARRITT:** Yes, sir.

7 **MS. ATHERDEN:** Mm-hmm.

8 **MS. WILSON:** And it goes through the
9 speaker.

10 **THE CHAIRMAN:** And go through the
11 Speaker.

12 **MR. BARRITT:** And if the Government
13 doesn't like it, they can vote it down, and they can
14 put their own forward.

15 **MS. WILSON:** Mmm.

16 **THE CHAIRMAN:** Okay.

17 **MR. BARRITT:** And the electorate can
18 decide who made the best decision. And that's the way
19 the system works.

20 **THE CHAIRMAN:** Okay. And when you
21 spoke about campaign finance reform, and you spoke
22 about having funds available, on a constituency basis,
23 where is that money going to come from?

24 **MR. BARRITT:** No. If you have donors.

25 **THE CHAIRMAN:** If you have donors.

1 **MR. BARRITT:** If you have donors. If
2 you allow for donations. You know, people often cap,
3 in other jurisdictions, what someone can give.

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

5 **MR. BARRITT:** And I said, if people
6 give to a political party, one way to make sure that
7 every constituency gets equal treatment is to say to a
8 party that there must be either a percentage or money
9 basis, a minimum spent per constituency.

10 **THE CHAIRMAN:** Oh, I see. I see.
11 Right. So money goes to the party for national
12 purposes, --

13 **MR. BARRITT:** Yeah, that's one way.

14 **THE CHAIRMAN:** -- and then subsequently
15 can be allocated --

16 **MR. BARRITT:** That's right, and there
17 has to be a set minimum, or -- and maximum for each
18 constituency.

19 **THE CHAIRMAN:** Okay. All right.

20 Any further questions? Comments?

21 **MR. SMITH:** No, thank you.

22 **THE CHAIRMAN:** I want to thank you very
23 much.

24 You've given a very detailed
25 presentation. Lots to think about, lots to chew on,

1 and it's very helpful.

2 **MR. BARRITT:** Good. I'm pleased to
3 hear that.

4 **THE CHAIRMAN:** Thank you.

5 **MR. BARRITT:** It's been a love of mine,
6 or -- for some years.

7 **THE CHAIRMAN:** Well, clearly you've
8 been working on these issues for a while, yeah.

9 **MR. BARRITT:** Well, as they say, I know
10 it's a hackneyed, well-worn phrase, the devil is always
11 in the details, and this is an Act that is full of
12 detail, but we shouldn't just throw up our hands and
13 say, Oh, we'll do the best we can.

14 I'm pleased that you got a committee
15 that's looking at this, and I look forward to reading
16 what the recommendations are.

17 **THE CHAIRMAN:** Good. Good.

18 **MR. BARRITT:** And more than that, I'd
19 like to see them adopted.

20 **THE CHAIRMAN:** Yeah, that's going to
21 take --

22 **MR. BARRITT:** Without giving you a
23 blank cheque.

24 **THE CHAIRMAN:** No *carte blanche*.
25 Thank you.

1 We're going to resume at three o'clock
2 with our next...

3 --- at 12:58 p.m.

4 - - - - -

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 --- at 3:00 p.m.

2 **INVITED GUEST: MICHAEL WILLIAM BRANCO**

3 **THE CHAIRMAN:** Well, we can begin the
4 session now. As I said to you, Mr. Branco, we were
5 waiting on Ms. Jackson to arrive because she's going to
6 lead off with the questions.

7 **MR. BRANCO:** Sure.

8 **THE CHAIRMAN:** But before Ms. Jackson
9 gets to her questions, can you just state for the
10 record your full name and your sort of political
11 involvement, what is your current political -- I know
12 what your position is, I want you to say it for the
13 record.

14 **MR. BRANCO:** Sure. No problem.

15 So it's Michael William Branco and I'm
16 currently Deputy Chairman of the OBA and I also served
17 on the Campaign Committee for the OBA, so was quite
18 heavily involved with the election.

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

20 Ms. Jackson?

21 **MS. JACKSON:** Hi Michael.

22 **MR. BRANCO:** Hi.

23 **MS. JACKSON:** Thank you for coming.

24 **MR. BRANCO:** No problem.

25 **MS. JACKSON:** So I'm going to create

1 and open up the whole context of technological
2 advancement and how we can create an environment where
3 the electoral process becomes more a part of the 21st
4 Century as far as electronic registration, voting,
5 processes and procedures, are carried out.

6 So I'm wondering if you might be able to
7 give us a bit of an overview of some of your
8 experiences, before, during and after the 2012 Election
9 and especially if you could focus more specifically
10 around the electronic and technological issues that may
11 have occurred, successes and challenges.

12 **MR. BRANCO:** Okay. Sure. And, you
13 know, those who do know me, that's what I do for a
14 living is I'm a technology consultant, so, within the
15 OBA most of the solutions that I put in to help have
16 been technology orientated, so that's always kind of
17 been my focus, and what it is, I made a few notes just
18 to walk you through some of those items.

19 **THE CHAIRMAN:** Sure.

20 **MR. BRANCO:** I think the first one on
21 the list is we all know on the night of the election
22 the election results website went down, because it
23 couldn't take the load. You know, I think from the
24 Country's perspective that created a lot of anxiety, so
25 that's something that I would like to see resolved, you

1 know, for the next one, in terms of load testing those
2 systems and taking what we saw in terms of the traffic
3 that hit that site on the night and making sure that we
4 can at least handle that and maybe double, just because
5 that was where everybody was looking and it was
6 obviously a critical election. So that was one of
7 the -- I wouldn't call it a failure, but just something
8 that could be improved, from a technology perspective.

9 **THE CHAIRMAN:** Right.

10 **MR. BRANCO:** One thing that we did
11 a lot of work with the Parliamentary Registrar on,
12 during this election, was getting live data feeds of
13 all the -- the voter base. So we would feed that into
14 our system and then we were able to see if we were able
15 to -- as we're canvassing, making sure that you were at
16 the house that you were supposed to be at; if you
17 weren't, then making sure that we got those forms back
18 to the PR, and once it was processed, seeing that come
19 back in the data feed.

20 So we did that with a technology
21 solution. And the PR was definitely open to that.
22 He's very advanced in terms of his approach on
23 technology, but it's something that we had to work
24 together on.

25 And we initially did those in batch

1 files so we'd get a download and then we'd have to load
2 that into our system.

3 We got it to the point where it would
4 feed in live, and I'd like to see that happen going
5 forward. I think it was somewhat of a customization
6 done for this election but we proved that it could work
7 and it's beneficial to any party who wants to canvass
8 correctly and make sure that the data is correct.

9 It definitely reduced that lag in terms
10 of us going to get the data by flicking through the
11 printout or waiting for the PR to do it, I mean, so it
12 showed some good progress and I think we should
13 probably want to continue that.

14 One of the issues that we did see is
15 some of our candidates actually wanted to continue
16 canvassing after the election and -- but we couldn't
17 get the data, in other words we were told, --

18 **THE CHAIRMAN:** Right.

19 **MR. BRANCO:** -- That's it, election's
20 over, we're not going to update it, you know, until a
21 six -- I think we got an update in July, of this
22 summer. So, you know, in my opinion as a technologist,
23 there's nothing to stop us from continuing to provide
24 that data out.

25 **THE CHAIRMAN:** Continuous updates.

1 **MR. BRANCO:** Yeah. Exactly. And it's
2 something that we can pull from the PR's system, real
3 time, so, whichever system a party is using, they can
4 pull that data out. And so I'd like to see that going
5 forth.

6 I don't know if there's a funnel process
7 behind that, that the reason we couldn't get the data
8 after the election is because it wasn't being updated
9 on the front side, and I'd leave that to somebody else
10 to determine, but from a technology perspective the
11 continuous updates would be very good.

12 You know, kind of on that vein, what we
13 did see as well was, during the election, as each party
14 was doing, we would provide the forms to people we had
15 canvassed, if they weren't registered or they needed to
16 be moved, because they hadn't updated the PR.

17 **THE CHAIRMAN:** Right.

18 **MR. BRANCO:** In some cases, because we
19 were getting the data back so quickly, we would see
20 that there was a disconnect with forms that were
21 submitted and then not showing up in the system.

22 **THE CHAIRMAN:** What do you mean a
23 "disconnect"?

24 **MR. BRANCO:** In the sense that if I had
25 voter A, who hadn't been registered before, let's say,

1 we'd give them the form, confirm that they had
2 delivered it to the PR, and then we'd wait for that
3 data a week later, two weeks later, --

4 **THE CHAIRMAN:** Oh, that long.

5 **MS. WILSON:** Yeah.

6 **MR. BRANCO:** And in some cases it just
7 wasn't there. And then we would raise that with the
8 PR, and then the matter was resolved.

9 **THE CHAIRMAN:** So it was just a delay
10 in getting the information inputted --

11 **MR. BRANCO:** No, in some --

12 **THE CHAIRMAN:** -- as opposed to a
13 challenge?

14 **MR. BRANCO:** In some cases there was
15 just -- the information never made it into the system.
16 So we'd have somebody who filled out the form, it was
17 submitted, and then it just wasn't in the system. And
18 in some cases the voters alerted us to it, where we
19 would say, you know, Go check on line to make sure
20 you're registered, and then they would say, I'm not
21 showing up. We would check our system. Didn't show up
22 in our system either, and then we'd go back and query
23 the PR.

24 So I don't know where the breakdown was,
25 if the form didn't make it from the clerk to upstairs,

1 or data entry, or if there was something, but in terms
2 of, you know, the scope of what you're looking at here,
3 probably good to investigate.

4 **THE CHAIRMAN:** Sure.

5 **MS. JACKSON:** Now, can you confirm for
6 us whether there is on-line registration?

7 **MR. BRANCO:** You can, I think -- I
8 don't know if it's changed, but you could fill it out
9 on line, and perhaps maybe that was part of the
10 problem, it didn't work, or something like that. I
11 haven't looked at it in a while so to be honest I can't
12 recall.

13 **THE CHAIRMAN:** Right.

14 **MR. BRANCO:** But I thought there was.
15 You could definitely download the forms and submit
16 those the old-fashioned way, you know, walk them in.

17 **MS. JACKSON:** Oh, okay. So no matter
18 what, you still had to physically and manually hand in
19 your form, you couldn't electronically register --

20 **THE CHAIRMAN:** No, because you have to
21 sign it.

22 **MS. JACKSON:** You know, where you --

23 **MR. BRANCO:** You have to sign it, yeah.

24 **THE CHAIRMAN:** You have to sign it,
25 that's why, yeah.

1 **MS. JACKSON:** Okay. All right. Just
2 want to make sure.

3 **MR. BRANCO:** Yeah. Yeah. Which is
4 interesting because, you know, funnily enough I had
5 that in my notes, I mean, under the Electronic
6 Transactions Act, we do honour digital certificates.

7 **THE CHAIRMAN:** Right.

8 **MR. BRANCO:** So, you know, that's
9 another suggestion I had on my list, as a geek, is
10 that, you know, why don't we leverage things, like
11 digital signatures, so that these submissions can be on
12 line for those who wish to do it that way.

13 And then some of that could actually be
14 wrapped around absentee voting, e-voting, just to
15 ensure the integrity of a vote.

16 You know the nice thing about the
17 progressiveness of some of our Legislation, we have
18 digital signatures in place, they're recognized,
19 they're legally binding, you know, why wouldn't we use
20 that to implement something like on-line absentee
21 voting or e-voting, because at that stage the integrity
22 of that would be solid, because the process of issuing
23 the digital certificate would ensure that the right
24 person is signing, i.e., voting. So that would be
25 another suggestion I would have, in terms of the tech

1 side of it.

2 **THE CHAIRMAN:** Mm-hmm. Okay.

3 **MR. BRANCO:** And actually on the e-
4 voting as well, I mean we -- I say "we", you know, one
5 of the things that I wanted to do in my role in the OBA
6 was actually do proof of concepts around e-voting --

7 **THE CHAIRMAN:** Proof of...?

8 **MS. WILSON:** To who?

9 **MR. BRANCO:** Proof of concepts.

10 **THE CHAIRMAN:** So you want to break
11 that down, though, right? What does that mean?

12 **MR. BRANCO:** Well, we did that in the
13 first OBA AGM, we did do e-voting, so we allowed people
14 to come in --

15 **MS. WILSON:** I'm not a techie, so a
16 proof of concept is...?

17 **MR. BRANCO:** Oh, sorry, a proof of
18 concept.

19 **MS. JACKSON:** Explain it.

20 **MS. WILSON:** What is that?

21 **MR. BRANCO:** Proving, in a smaller
22 case, test case, that e-voting would work.

23 **MS. WILSON:** Okay. Okay. All right.

24 **MR. BRANCO:** Sorry, I...

25 **MS. WILSON:** That I understand.

1 **MR. BRANCO:** So we did that in the
2 first AGM. We had about 22 people vote on line who
3 were either away at school or unable to make the party
4 election on the night.

5 **THE CHAIRMAN:** Right.

6 **MR. BRANCO:** In that case we used a
7 company in New Zealand who specialize in this, and it
8 worked very well.

9 **MS. WILSON:** Okay, so you tested it.

10 **MR. BRANCO:** Yeah, we tested it, yes.

11 **MS. WILSON:** Proof of concept. I must
12 remember that. Sounds much fancier than "testing it".

13 **MR. BRANCO:** Afterwards I can give you
14 a hit list of all the other...

15 **MS. JACKSON:** That's a nice one, isn't
16 it? I think pilot, you know.

17 **MS. WILSON:** What did you say?

18 **MS. JACKSON:** A pilot.

19 **MS. WILSON:** Exactly.

20 **MR. BRANCO:** Yeah.

21 **MS. WILSON:** Soft launch. Proof of
22 concept.

23 **MR. BRANCO:** And, yes, and we're doing
24 the same thing in the next party election where we'll
25 be just kind of iterating it a little further in terms

1 of increasing, well, my understanding and the party's
2 understanding of e-voting and the challenges that may
3 go around that. And so I think, you know, the learning
4 curve, we're going through that learning curve, and,
5 you know, I would like to see Bermuda do a similar
6 thing, you know, particularly around absentee voting,
7 and obviously in your political roles you see the call
8 for that quite a bit, I would guess, and it's, you
9 know, how do you administer it, and luckily, in this
10 day and age, technology does offer one of the
11 solutions.

12 **MS. WILSON:** Mm-hmm.

13 **MR. BRANCO:** So, and, yeah, so that,
14 you know, around the e-voting, that's something that I
15 think we could do and something that we've been testing
16 in a proof of concept.

17 One of the things that I had on my list
18 as well was, I think both parties did robocalling, and
19 in the November 2012 Telecoms Act update there was a
20 provision there for a "Do not call" register, which I
21 don't know if that's been enforced at this stage -- I
22 don't think it has.

23 **THE CHAIRMAN:** I don't think it has
24 been, has it?

25 **MS. WILSON:** No.

1 **MR. BRANCO:** And, you know, this is a
2 double-edged sword, because I think being able to call
3 constituents is a good thing, to let them know about
4 the issues, reach out to them, you know, if you
5 couldn't meet them on the doorstep, follow-up calls,
6 things like that. Determining if they're in the right
7 location.

8 One thing that we did see was the
9 increase in the number of mobile phones, as opposed to
10 landlines, you know, and that obviously has some
11 technology bits to it as well. And then that became
12 tough because, you know, somebody could be living in
13 one place and move to another and the phone number
14 stays the same but you don't know if they have moved.

15 **MS. WILSON:** Mm-hmm.

16 **MR. BRANCO:** So I think having those
17 telephone numbers is a good thing, for both the party
18 and the Government and -- but also we had complaints,
19 you know, from both sides, where people said, I got a
20 phone call from one party --

21 **THE CHAIRMAN:** They don't want to be
22 bothered.

23 **MR. BRANCO:** -- and I don't want to get
24 these calls. They call at dinner time, you know, the
25 classic thing that, you know, you've seen in other

1 jurisdictions. So I think implementing a "Do not call
2 Register" would be a good thing, and have people, when
3 they fill out their registration, voter registration
4 form, maybe that could be administered by the PR, you
5 know, where they will put their telephone numbers on
6 that form, and then they can tick a box that says
7 whether or not they want to be called.

8 **MS. WILSON:** Mm-hmm.

9 **MR. BRANCO:** And it's just, in my
10 opinion, maybe that's one way it could be implemented
11 and then tracked. And the PR does have the ability to
12 pass those phone numbers, in a data file, to any of the
13 political parties, and he could then, based on whether
14 or not the person opted in or out, then they would just
15 feed the numbers that people said, Yes, I'm willing to
16 take a phone call. So that was something that, you
17 know, when I was invited to be here, I made some notes
18 on and just thought of some other things that we could
19 address.

20 **THE CHAIRMAN:** Sure.

21 **MR. BRANCO:** So those were kind of my
22 notes. I'm happy to take any questions, if that's the
23 format, or...

24 **MS. JACKSON:** Yes. And I have a couple
25 of questions.

1 I'd like to go back to e-voting for a
2 bit.

3 **MR. BRANCO:** Mm-hmm.

4 **MS. JACKSON:** Now, there has been the
5 observation that ballot boxes have been troublesome,
6 that voters have a level of fear and maybe even some
7 intimidation that either they're being watched through
8 the ballot box or they're actually doing the wrong
9 thing with their ballot, and whether there is any
10 notion that electronic e-voting would improve accuracy
11 and/or reduce any anxiety with voters around
12 confidentiality and accuracy, et cetera.

13 **MR. BRANCO:** Right.

14 **MS. JACKSON:** So can you speak to that?

15 **MR. BRANCO:** A little bit. So you've
16 got e-voting where you do on-line, so you either vote
17 through a secured website or secure e-mail, with
18 digital signatures.

19 And then there's e-voting, I think what
20 you're talking about is around voting machines. I have
21 done a little bit of investigation but I'm not an
22 expert. I've talked to a few vendors.

23 They did it in Jamaica and I spoke to
24 some technology peers down there about how they did it,
25 what they put in.

1 I would think there are a few benefits
2 to the e-voting machines. One that the ballot count
3 isn't the two-hour process that we're all used to,
4 waiting in the polling station. It's obviously secure,
5 and in terms of I don't know whether or not it
6 addresses the "I'm being watched" aspect of it, because
7 I would guess that voting machine would be in the same
8 position as the box, so I can't talk to that too much.

9 The only experience I had when I was at
10 the polling station for the advanced polls, and what I
11 saw with the ballot boxes there was that people were
12 dropping ballots into the wrong boxes. So we had boxes
13 1 through 36, and, for example, I'm in Constituency 30,
14 and at the advance poll I voted because I was obviously
15 involved in the election on the 17th, so I would drop
16 mine into box 30. But what was happening in some cases
17 is people maybe weren't paying attention, maybe they
18 were chatting to somebody as they were walking up to
19 the box after they had ticked off on their ballot, and
20 they might accidentally put it in 31 or 29.

21 **THE CHAIRMAN:** You saw that?

22 **MR. BRANCO:** I didn't see that happen,
23 I saw the result, because I stayed for the vote count,
24 and what we saw was that each constituency, each
25 returning officer had their ballot book and they knew

1 that they had, say, given out 58 ballots. And then
2 there would be 59 ballots in their box. And then what
3 we would do is keep counting and we would see that we
4 were short. So, if we had to have 30 ballots in the
5 next box, there were only 29 there.

6 **THE CHAIRMAN:** But just for
7 clarification, the officers would know where the ballot
8 was supposed to be, even it was put in the wrong box,
9 because they have the people's names on them.

10 **MR. BRANCO:** Yeah, and it didn't affect
11 the integrity of the vote, I mean, it just took a lot
12 longer to count the votes.

13 **THE CHAIRMAN:** Right.

14 **MR. BRANCO:** So all I'm saying is
15 that's my only experience with the ballot boxes and any
16 question marks. It didn't affect the integrity of the
17 vote because the presiding officer had that in check
18 and he was able to get it into the right constituency.
19 But, you know, obviously, that perhaps wouldn't have
20 happened if we had voting machines because you wouldn't
21 have 36 boxes and 36 chances to make a mistake, so,...

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

23 **MS. JACKSON:** I'm like to go back, now,
24 to voter registration.

25 **MR. BRANCO:** Yeah.

1 **MS. JACKSON:** So can you explain or
2 give us any more information on, now, TCD and our
3 Bermuda licence plates, --

4 **MR. BRANCO:** Mm-hmm.

5 **MS. JACKSON:** -- I mean our licence,
6 excuse me, our Driver's Licence cards? There appears
7 to be some sort of electronic bar code on the back.

8 **MR. BRANCO:** Yes.

9 **MS. JACKSON:** And there is an annual
10 requirement to prove our residency, based on our
11 registration of a car. So at least those people who
12 own cars in Bermuda, or who drive cars, there should be
13 some level of accuracy or updating that goes on with
14 your Driver's Licence.

15 So I'm just wondering if you could maybe
16 expand on how we might be able to use or utilise the
17 information and the technology at TCD for voter
18 registration.

19 **MR. BRANCO:** Sure. And I haven't
20 looked at the TCD systems in a while. I did look at
21 them a few years ago, as a technology consulting,
22 bidding on the e-insurance transfer. So what happens
23 now with the insurance companies, they will submit
24 their insurance policies electronic to TCD so that when
25 you get there to register your car, the proof of your

1 insurance is already in the TCD system.

2 **THE CHAIRMAN:** Right.

3 **MR. BRANCO:** So I am familiar with the
4 data bridge that was built for that and that data
5 bridge also can go the other way, in terms of pulling
6 out all of your licence information, and that can then,
7 from what I understand, is pulled into other data
8 warehouses within Government, so, yes, that system
9 could be used as maybe an authoritative source of where
10 Michael Branco lives, according to the TCD address.

11 **THE CHAIRMAN:** But how do you address
12 the issue of there are probably only about 27,000 cars
13 registered, yet there are --

14 **MR. BRANCO:** Forty-two thousand voters,
15 yeah.

16 **THE CHAIRMAN:** -- forty-two thousand
17 voters, so you can have a partial accuracy for part of
18 the list.

19 **MR. BRANCO:** No, exactly, I mean it's
20 not a complete solution, but I think I see where you're
21 going with this question is there are authoritative
22 data sources within Government that could be utilized
23 and TCD seems like a pretty strong candidate, and maybe
24 you could pull from other systems to get, you know,
25 accurate address information.

1 **THE CHAIRMAN:** Except for those people
2 who have a car registered at their mother's house, --

3 **MR. BRANCO:** Yes.

4 **THE CHAIRMAN:** -- because they get to
5 register that car and they're actually living somewhere
6 else.

7 **MR. BRANCO:** Yeah. Yeah.

8 **MS. JACKSON:** Could provide TCD with
9 some important intelligence, but that's another
10 conversation.

11 **MR. BRANCO:** Yeah. And I know e-
12 Government has been, over the last few years, looking
13 at a mass person index, and that is pulling from
14 various data sources within Government to put one
15 master person index so that we actually have an
16 accurate picture of each of us in terms of where we
17 live, what cars we have registered, what land tax,
18 because right now there are siloed systems within
19 Government and there's duplication and triplication and
20 beyond that in terms of separate information that's
21 held on each of us.

22 So, TCD is a good place to start, but I
23 think that there need to be some larger fixes done in
24 terms of how we get the data.

25 **THE CHAIRMAN:** Mm-hmm. Right. Right.

1 Okay.

2 **MR. BRANCO:** And sorry, to answer your
3 question, yes, the bar code on the back of your
4 licence, contains all of that information. We've
5 scanned them and it does, so that does facilitate some
6 sort of automation or interaction maybe at public
7 places like Post Office where we can scan that licence
8 and it would pull that information out.

9 **THE CHAIRMAN:** Okay.

10 **MR. BRANCO:** So, yeah, no, I think it
11 would be a good place to start in terms of helping with
12 that registration process, and making it faster.

13 **THE CHAIRMAN:** Just on the e-voting
14 issue, there's been some research done in the United
15 States on e-voting and they found the potential for
16 fraud and error is not as low as people would expect it
17 to be.

18 **MR. BRANCO:** Mm-hmm. Yeah.

19 **THE CHAIRMAN:** So, how do you propose
20 those sort of issues be addressed?

21 **MR. BRANCO:** I don't know when that
22 study -- is it a fairly recent study?

23 **THE CHAIRMAN:** For the last election.

24 **MR. BRANCO:** Okay.

25 **THE CHAIRMAN:** The last US election.

1 **MR. BRANCO:** It's interesting, because
2 when I was in undergrad, many moons ago, in '95, we
3 actually did e-voting at the University of Western
4 Ontario, and we did what's called two-factor
5 authentication.

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

7 **MR. BRANCO:** You had to show up and
8 then register to e-vote.

9 **THE CHAIRMAN:** Right. Right.

10 **MR. BRANCO:** You had to present your
11 student ID, they did a proof of your identity, and then
12 you were given a sealed envelope with a secure code.
13 And then during the election period for a student body
14 president, you would then go to the secure voting
15 website, you would log in with your university user
16 name and password, pick your candidate, and then put in
17 the secure code, so there was a two-factor
18 authentication, so there was an in-person component to
19 that.

20 **THE CHAIRMAN:** Mmm, right. But there
21 was no human verification possible.

22 **MR. BRANCO:** Well, yeah, and that's
23 always the problem, right, is who is at the keyboard.

24 **THE CHAIRMAN:** Right.

25 **MS. WILSON:** Yeah.

1 **MR. BRANCO:** And --

2 **THE CHAIRMAN:** But would you not agree
3 that e-voting is something that can realistically be
4 examined for much larger jurisdictions, but in the case
5 of a small country like Bermuda, where your largest
6 constituency is about 1200, and you yourself just said
7 it may take up to two hours to count the ballots,
8 you're not talking about counting the ballots over two
9 or three days, it's two hours; what's wrong with the
10 system of just counting the ballots? Because you have
11 verification. Whereas e-voting doesn't allow for human
12 verification, and I understand you're a -- you call
13 yourself a geek, I didn't call you that, but you call
14 yourself a geek, you know, there are some pretty savvy
15 programmers out there who can slip all kinds of things
16 and code into programmes, and so I would need to be
17 convinced of the reliability of e-voting.

18 **MR. BRANCO:** I think there's a little
19 bit of technology fear there. I'm a little more
20 comfortable with it, having spent four or five years
21 doing digital security at a company called QuoVadis,
22 which was started in Bermuda, and now --

23 **THE CHAIRMAN:** I know QuoVadis, yeah.
24 They pioneered the digital certificate, didn't they?
25 Signature?

1 **MR. BRANCO:** Well, they were the first
2 offshore one.

3 **MS. WILSON:** Yeah.

4 **THE CHAIRMAN:** Oh, first offshore.

5 **MR. BRANCO:** And so they are now quite
6 large in Switzerland, who have adopted digital
7 identity, digital signatures, and so I'm a little more
8 comfortable with it. If it's somebody who is not
9 familiar with technology, there's anxiety and fears
10 that do come with that and perhaps there needs to be an
11 education process for the public to answer some of the
12 concerns that you have. And I don't have all the
13 answers either, because I haven't read the report that
14 you're referring to.

15 **THE CHAIRMAN:** Right. Yeah. People
16 was -- you voted for one person and the other name
17 would come up. Those kinds of things.

18 **MR. BRANCO:** Yeah, there were
19 malfunctions. I saw that during the last US
20 Presidential election.

21 **THE CHAIRMAN:** Right. Right.

22 **MR. BRANCO:** Which would concern me,
23 you know, and I would share a similar fear with you on
24 those types of issues.

25 **THE CHAIRMAN:** Yeah.

1 **MR. BRANCO:** And I think, yeah, but
2 further proof of concepts, you know, pilots, would,
3 I think, be warranted. I wouldn't dismiss it out of
4 hand.

5 **THE CHAIRMAN:** Right.

6 **MR. BRANCO:** And to answer your
7 question about the voting, you know, counting the votes
8 within two hours, I would personally just put in e-
9 voting for absentee.

10 **THE CHAIRMAN:** Oh, I see, so you
11 wouldn't propose it for...

12 **MR. BRANCO:** No, I quite like the, that
13 piece --

14 **THE CHAIRMAN:** You like going up to the
15 polls and --

16 **MR. BRANCO:** Yeah, I like going to the
17 polls and shaking everyone's hand and, you know, I
18 think that's reflective of our community, we should be
19 a little more social as opposed to all sitting at home
20 and voting.

21 **THE CHAIRMAN:** Right. Now, given your
22 experience in this area of electronic voting, is there
23 an acceptable margin of error?

24 **MR. BRANCO:** I wouldn't say that I have
25 experience in this area, I've just kind of -- I

1 understand some components and I've researched it, but
2 I wouldn't say that I'm an expert in it, I think you'd
3 want to bring in some e-voting experts. I've done a
4 few proof of concepts, and so may be ahead of a few of
5 my peers in Bermuda, just because -- I haven't seen
6 anybody in Bermuda do e-voting for a political party,
7 other than myself, so -- but I wouldn't say I'm an
8 expert.

9 **THE CHAIRMAN:** Okay. Okay.

10 Now, you're here as -- you're the Deputy
11 Chairman of the OBA.

12 **MR. BRANCO:** Yeah.

13 **THE CHAIRMAN:** And you're on the
14 Election Campaign Strategy Team?

15 **MR. BRANCO:** On the Election Committee,
16 yeah.

17 **THE CHAIRMAN:** Election Committee.

18 **MR. BRANCO:** Yeah.

19 **THE CHAIRMAN:** So, one of the issues
20 that this Committee is looking at is the whole issue of
21 declaration of interest in contracts.

22 **MR. BRANCO:** Mm-hmm.

23 **THE CHAIRMAN:** And as -- in your
24 position, were you aware of the practice of candidates
25 making such submissions, prior to election day?

1 **MR. BRANCO:** I wasn't, because I was
2 focussed on the technology bits of the OBA campaign.

3 **THE CHAIRMAN:** Right. So to your
4 knowledge there was never a discussion in the OBA camp
5 regarding what some say is a Constitutional obligation
6 to make a declaration of interest?

7 **MR. BRANCO:** I wasn't privy to any, no.

8 **THE CHAIRMAN:** But you were on the
9 Election Committee.

10 **MR. BRANCO:** Yeah, I was.

11 **THE CHAIRMAN:** So you never had that
12 discussion while you were in the meetings?

13 **MR. BRANCO:** Not when I was in the
14 room, no.

15 **THE CHAIRMAN:** Okay. And were you
16 aware of the practice having taken place in previous
17 elections, of making submissions of declarations of
18 interest?

19 **MR. BRANCO:** No, because the last time
20 I was involved in an election was 2003, and I was
21 basically fixing people's e-mail.

22 **THE CHAIRMAN:** Okay. Okay.

23 **MR. BRANCO:** So I wasn't involved at
24 that level.

25 **THE CHAIRMAN:** Okay. So, in 2012, you

1 were on the Campaign Committee but you had never had a
2 discussion about the issue of declaring one's interest
3 in Government Contracts.

4 **MR. BRANCO:** No.

5 **THE CHAIRMAN:** And as far as you're
6 aware of, it was not discussed prior to the election?

7 **MR. BRANCO:** I have no knowledge about
8 that.

9 **THE CHAIRMAN:** You have no knowledge of
10 that? Okay. All right.

11 **MR. BRANCO:** Any of the technology
12 bits, I could tell you about.

13 **THE CHAIRMAN:** Okay.

14 **MR. BRANCO:** Because I was in those
15 meetings.

16 **THE CHAIRMAN:** Okay.

17 **MS. WILSON:** I don't have any
18 questions.

19 **MS. JACKSON:** I want to just ask you a
20 little about, still getting back to the e-voting, --

21 **MR. BRANCO:** Mm-hmm.

22 **THE CHAIRMAN:** You like that topic,
23 don't you.

24 **MS. JACKSON:** Yeah, I do. And even --
25 and the idea of the possibility of people being allowed

1 to vote from home through, you know, maybe a two-
2 layered security process and so on, --

3 **MR. BRANCO:** Yeah.

4 **MS. JACKSON:** -- because they don't
5 want to go to the polls. So, one, I've already heard
6 that, you know, in your personal opinion you like the
7 atmosphere of physically going to a location to vote
8 and the social component.

9 **MR. BRANCO:** Yeah.

10 **MS. JACKSON:** And I just wanted to just
11 rhetorically or philosophically ask your views on the
12 viability of allowing people the option of voting
13 electronically if they do not want to go to the polls,
14 for fear of intimidation, in particular, by candidates.

15 **MR. BRANCO:** That's an interesting
16 component. I mean, there are -- there are definitely
17 systems that I've researched and received proposals on.
18 One out of the UK is called -- it's actually called
19 Election Reform, they've administered some large
20 constituencies, I think to the size of about 30,000
21 voters, where they had the option to vote from home,
22 and that was everything from a leadership election, you
23 know, maybe a councilman, through to an issues election
24 as well, you know, or a referendum.

25 **THE CHAIRMAN:** Mm-hmm. Right.

1 **MR. BRANCO:** And so it's interesting
2 what you mentioned about the intimidation aspect,
3 because you do hear reports of that at polling
4 stations, not only in Bermuda but in other
5 jurisdictions, so that would actually solve that
6 problem, if it were big enough of an issue that we
7 think, yeah, and so you could.

8 **MS. JACKSON:** And do you think a
9 jurisdiction such as Bermuda would be able to handle or
10 whether it would even be, you know, both financially
11 and, as far as manpower, it would be realistic to have
12 electronic voting and manual voting on an election day?

13 **MR. BRANCO:** It's a good question, I
14 mean, I can only talk about the experience that we had
15 with the AGM in 2011, and the way we did that is,
16 people who preregistered to e-vote who were off-Island,
17 we handled it just like the advance polls are handled
18 in Bermuda. We didn't want to try to implement some
19 other process that was not known and then the question
20 of integrity come up. We said we will follow how we
21 would do a normal election, so they would have to prove
22 that they were going to be off-Island or submit that
23 proof, and then they were given that two-factor
24 authentication so that they could then vote the morning
25 of the AGM, because what we didn't want to do is let

1 them vote earlier, particularly if candidates were
2 making communications, sending e-mails and canvassing,
3 that that person make an uninformed vote two days
4 before the election. We wanted to make sure that the
5 voting had started at 8 a.m. and then closed before the
6 actual manual voting occurred.

7 And all this to answer your question is,
8 you know, that process was not expensive, the e-voting
9 process, you know, so I think maybe it does warrant
10 some further investigation that maybe e-voting could
11 save money for the Government, you know, if it meant
12 that polling stations could be consolidated because
13 there were less people physically coming out to the
14 polls and voting the manual way.

15 **THE CHAIRMAN:** Right. How were you
16 able to verify that the people who you gave the two-
17 tiered voting component to actually did cast that vote?

18 **MR. BRANCO:** With those ones it had to
19 come from the source e-mail address and they had to
20 have the correct code. So it's a little bit like your
21 ATM card.

22 **THE CHAIRMAN:** Right.

23 **MR. BRANCO:** You know, yes, you could
24 give your code to your wife, and then she can withdraw
25 that money, so that the process was integral enough

1 for --

2 **THE CHAIRMAN:** But you couldn't say
3 with absolute certainty that those people voted.

4 **MR. BRANCO:** No. But there are systems
5 that can take it to the next level, as well, and I
6 probably couldn't cover that today, but there are ones
7 that I have researched, and it's also progressed in the
8 last two years as well.

9 **THE CHAIRMAN:** Okay. And just on the
10 issue because, -- Susan raised the issue of voter
11 intimidation. Did you receive any reports of voter
12 intimidation?

13 **MR. BRANCO:** I didn't, but I was a few
14 layers back this year, in terms of my proximity to the
15 polling stations; in other words I was sitting back at
16 the office, monitoring technology systems and making
17 sure phones and everything was working. So I didn't
18 actually see any myself, and, so, yeah, I really can't
19 answer that question.

20 **THE CHAIRMAN:** Okay.

21 **MS. JACKSON:** But you can confirm that
22 you had at least heard reports of.

23 **MR. BRANCO:** Yeah.

24 **MS. JACKSON:** Okay.

25 **MR. BRANCO:** Yeah.

1 **THE CHAIRMAN:** Okay.

2 **MS. JACKSON:** Thank you.

3 **THE CHAIRMAN:** Any other questions?

4 Mr. Branco, thank you very much for
5 coming.

6 **MR. BRANCO:** Thank you very much.

7 **THE CHAIRMAN:** Your insights have been
8 very helpful. Yeah, you're right, it creates a level
9 of fear to talk about some aspects of e-voting and
10 electronics, but I understand that is the way many
11 people are headed, so we have to look at it all
12 carefully and see what can be applied.

13 **MR. BRANCO:** Yeah, I think if we set
14 our sights on that horizon. We don't need to do it
15 tomorrow and we also, you know, we're very aware of
16 what our fears are, and you raise good questions, and I
17 think further investigation is needed. Let's see what
18 the cost savings are, what the benefits are for the
19 country, and the nice thing is we're small enough that
20 vote verification is actually easy, in the sense that
21 it's a small enough population base and voter base that
22 we could actually verify that and kind of allay a lot
23 of those fears.

24 **THE CHAIRMAN:** Okay.

25 **MR. BRANCO:** Where I wouldn't want to

1 do it in a large --

2 **THE CHAIRMAN:** I'm sure we'll be
3 hearing more from you on this matter, I'm sure.

4 **MR. BRANCO:** Well, I'm not running for
5 Deputy Chairman on October 19th, I've got a little six-
6 month old at home, so I'm going to take a break for a
7 few years.

8 **THE CHAIRMAN:** Yeah, but you can work
9 from home.

10 **MR. BRANCO:** Yeah. This is true.

11 **MS. JACKSON:** Well, congratulations.

12 **THE CHAIRMAN:** Thanks very much.

13 **MR. BRANCO:** Thank you, guys.

14 **MS. JACKSON:** Thank you.

15 **MS. WILSON:** Thank you.

16 **MR. BRANCO:** Take care.

17 --- at 4:35 p.m.

18 - - - - -

19 Certified correct to the best of my skill and ability:

20
21 _____
22 Margaret I. Gazzard, CSR

23 Chartered Shorthand Reporter

24 MG Court Reporting & Transcription Services

25 (441) 232-6508

transcript@northrock.bm