



2010/11 SESSION
of the
BERMUDA
HOUSE OF ASSEMBLY

OFFICIAL HANSARD REPORT

3 JUNE 2011

(pages 1803–1866)

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

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BERMUDA HOUSE OF ASSEMBLY**OFFICIAL HANSARD REPORT****3 JUNE 2011****10:02 AM***Sitting Number 25 of the 2010/11 Session**[Hon. Stanley Lowe, Speaker, in the Chair]***PRAYERS***[Prayers read by Hon. Stanley Lowe, Speaker]***CONFIRMATION OF MINUTES****13 May 2011**

The Speaker: The Minutes of the 13th of May have been circulated. Honourable Members should find them in their seats or on their desks.

Is there any objection to the Confirmation of the Minutes of May 13th?

Agreed to.

*[Gavel]**[Motion carried: Minutes confirmed.]*

The Speaker: Other Minutes are being deferred.

MESSAGES FROM THE GOVERNOR

The Speaker: There are none.

**ANNOUNCEMENTS BY THE SPEAKER
OR MEMBER PRESIDING****BERNARD POULIN EXHIBIT**

The Speaker: I just wish to announce (and perhaps I should have done a little bit earlier) that the portrait that hangs to my left and the portrait that was hanging on the outside of the Chamber just as we come up the steps of Dame Lois Browne-Evans and myself, are on loan to the Bernard Poulin Exhibition at the Bermuda Society of Arts, from May 18th to June 8th. That is at the Bermuda Society of Arts exhibition. That matter was considered by the House and Grounds Committee, and the House and Grounds Committee thought it was a good idea, so we agreed. They are on loan.

Also, there is another portrait, which we have no responsibility for. That is a portrait of Dame Jennifer, but that came from the Cabinet. I just thought I should mention that.

Also, we wish to welcome to the House as a summer student Tanaya Tucker. She is going to be with us for the summer. She is a person who is

learned in the law. She is sitting here to the Speaker's left, so please make her feel welcome. Introduce yourselves to her when you get the opportunity to do so.

*[Desk thumping]***MESSAGES FROM THE SENATE**

The Speaker: There are none.

**PAPERS AND OTHER
COMMUNICATIONS TO THE HOUSE**

The Speaker: I now recognise the Honourable and Learned Member from Devonshire North West, Madam Premier.

Madam Premier has the floor.

PENSION COMMISSION 2007 ANNUAL REPORT

Hon. Paula A. Cox: Thank you, Mr. Speaker. I appreciate that.

Mr. Speaker, in accordance with section 64(2) of the National Pension Scheme (Occupational Pensions) Act 1998, I have the honour to attach and submit for the information of the Honourable House of Assembly Pension Commission 2007 Annual Report.

Thank you, sir.

The Speaker: Thank you, Madam Premier.

Any further Communications to the House?
We will move on.

PETITIONS

The Speaker: There are none.

STATEMENTS BY MINISTERS

The Speaker: I recognise the Honourable Member, Mrs. P. Minors, from Smith's North, Minister of Business Development and Tourism.

Minister, you have the floor.

**TECHNOLOGY LEADERSHIP FORUM
INTERNSHIP PROGRAMME**

Hon. Patrice K. Minors: Thank you, Mr. Speaker.

Mr. Speaker, I am pleased to report that earlier this week I participated in the official launch of the Technology Leadership Forum (TLF) Internship Programme. This internship programme was established by the Technology Leadership Forum in conjunction with the Ministry of Business Development and Tourism and members from the private sector technology industry to encourage and cultivate our young people's interest in IT careers.

Mr. Speaker, the reality is that in today's world the use of technology is a critical factor in the success of any business, large or small. Technology also enables us to think outside the confines of our 21 square miles and offer services around the world, and we want our young people to understand that there is an exciting range of IT careers available in Bermuda.

Mr. Speaker, the Technology Leadership Forum, also known as the TLF, was founded four years ago because of an identified need for qualified local Information Communications Technology (ICT) talent in Bermuda. The TLF is comprised of key influencers and leaders in the technology industry in Bermuda. This group came together with the objectives to encourage dialogue, to address issues in the local ICT field, to propose action steps, and to be a networking group amongst peers.

Mr. Speaker, the aim of the TLF is to be the voice of the ICT industry, representing both local and international businesses, in partnership with the Department of E-Commerce and other Government partners, to assess and strategise about addressing the shortage of qualified individuals in the IT sector.

Mr. Speaker, the demand for talented ICT resources is a growing need in Bermuda's public and private sectors. The TLF internship will give information communications technology students a well-rounded and in-depth understanding of the ICT industry in Bermuda. The students selected by the TLF will be part of an intensive 12-week summer internship programme where they will gain experience in the ICT industry through classroom learning, team projects, and fieldwork as members of staff at a participating company.

Mr. Speaker, this year eight college-level students, either pursuing or in possession of technology-related degrees, will participate in the internship from the end of May to the end of August, culminating in the students receiving a certificate of excellence. During the training sessions, students will focus on such key areas as business continuity, project management, data warehousing, programming, and networking, among others. These sessions will be taught by industry professionals and are meant to provide the students with a basic overview of the topics.

One of the benefits of this internship programme is the networking opportunities available to the students and our local ICT partners. In July there will also be a networking event for other IT students who are not in the TLF internship programme, so that

they might meet industry professionals and even learn how they can participate in TLF next year.

Mr. Speaker, the participating students and companies are:

- Matthew Coelho, who will be at Bermuda Hospitals Board;
- Justin Tucker, who also will be at Bermuda Hospitals Board;
- Philip Roque, Jr., at ICS;
- Hannah Collins, at North Rock Communications;
- Bryan Turner at RenaissanceRe;
- Cornel Castle, Jr., at Logic Communications;
- Tilhan Chitrananda at Ignition; and
- Derwin Adams at BELCO.

Mr. Speaker, our private sector partners know that students graduating from the programme can become beneficial members of the company's workforce with experience and hands-on training. I am happy to share that half of the 2009 and 2010 interns have secured employment after the programme, many with TLF organisations. This is a significant achievement when one considers that some of the former interns are also in the midst of their studies. And of those former interns still in school, many are interning with TLF member companies.

Mr. Speaker, an initiative such as this could not be possible without the participation of our sponsors and partners. I would like to thank all of our sponsors for their support of this programme:

- BELCO,
- Bermuda Hospitals Board,
- Quo Vadis,
- Department of E-Commerce,
- ICS,
- RenRe,
- North Rock Communications,
- Logic,
- Ignition, and
- Bermuda College.

I would also like to thank those organisations who will be providing the training modules this summer:

- Department of Labour and Training/Bermuda Careers Centre;
- Department of E-Commerce;
- Bermuda Hospitals Board;
- BELCO;
- First Atlantic Commerce;
- PricewaterhouseCoopers;
- Ernst & Young;
- Nova; and
- RenRe.

Mr. Speaker, this Government has demonstrated that we are committed to providing quality op-

portunities for our youth, and part of that commitment means preparing them for the future.

Thank you, Mr. Speaker.

I have yet another that I would like to present.

The Speaker: Thank you, Minister Minors.

Minister Minors has a further Statement.

DAVID H. ALLEN SUMMER INTERNSHIP PROGRAMME

Hon. Patrice K. Minors: Thank you, sir.

Mr. Speaker, I am pleased to announce this year's winners of the David H. Allen Summer Internship Programme, which is sponsored under the auspices of the Bermuda Department of Tourism. In 2003, this programme, having started 12 years ago for the benefit of developing Bermudians in the hospitality industry, was renamed after a former colleague and Member of this House, the late Honourable David H. Allen. The Honourable David Allen was keen to ensure that the Government supported and nurtured the best and the brightest Bermudians so that these qualified, experienced Bermudians could one day assume leadership roles in our tourism industry.

Mr. Speaker, this summer internship programme is an important capacity-building initiative. Bermudian university students who are embarking on careers associated with the hospitality industry, after a rigorous selection process, are selected to work at either of our international marketing agencies, New York sales office or Tourism head office, during their eight-week summer holiday period.

Mr. Speaker, in order to apply for the David H. Allen Internship Programme, students must be currently enrolled in college or university and majoring in marketing communications, public relations, travel and tourism, hospitality management and/or any related hospitality discipline. These students must be entering a junior or a senior year in September of the current year, and all applicants must be Bermudian.

The applicants should submit a resume, together with a minimum of 1,000-word essay that outlines their perceptions of the challenges facing Bermuda's tourism industry and their recommendations with regard to addressing the perceived challenges. All essays should end with an outline of the individual applicant's career objectives, and an indication of how the internship will assist them in achieving those objectives.

Mr. Speaker, the David H. Allen Summer Internship Programme commences annually in late spring, with each agency preparing a work plan for the intern that spans an eight-week period. This experience offers the intern [the opportunity] to become a contributing member of the tourism team, either directly with the Bermuda Department of Tourism or indirectly with one of our tourism partners.

Mr. Speaker, the David H. Allen Memorial Internship has afforded dozens of young people an opportunity to gain a greater understanding of the tourism product, as well as provide a significant exposure to the hospitality industry when working overseas at our New York office or with our various overseas marketing and communications partners.

This year there were 11 applicants for the Internship programme. And with your indulgence, Mr. Speaker, I wish to announce to this Honourable House the four 2011 David H. Allen interns:

1. The first is Catherine Finsness, a student at George Washington University in Washington, DC, who is pursuing a current major in Psychology with a minor in Fine Arts. Catherine will be working with our Interactive Marketing Agency, iCrossing, Ltd.
2. Kenisha Pough is presently attending Temple University Fox School of Business Management in Philadelphia, Pennsylvania, and is pursuing a Bachelor of Business Administration with a major in International Business and Marketing. Kenisha will be working with Lou Hammond and Associates.
3. David Thomas is currently studying at Ball State University, pursuing a Bachelors (Honours) Business, and majoring in Geography (Travel and Tourism). David will be working with the New York office for the Department of Tourism.
4. Alexa Outerbridge is presently studying at Queens University, majoring in Arts and Science and Hospitality. She is a dual major, with English and Geography. Alexa will be working with the Bermuda office of the Department of Tourism.

Mr. Speaker, this Government seeks to support our young people as they prepare themselves to become our leaders and caretakers of Bermuda in the future. As the Minister of Business Development and Tourism, I am truly proud of the four selected David H. Allen Summer Interns, who will be working with and for the Bermuda tourism sector this summer.

Thank you, Mr. Speaker.

ANNOUNCEMENT BY THE SPEAKER

The Speaker: Thank you, Minister Minors, the Honourable Member from Smith's North.

Just before I call the next speaker, I just wish to acknowledge in the visitors' gallery the Honourable David M. Sheridan, Judge of the Connecticut Supreme Court.

[Desk thumping]

The Speaker: We welcome you, sir, and we hope that you find our proceedings interesting and informative. Thank you. Welcome.

I now recognise the Honourable Member, Mr. Z. De Silva, from Southampton East Central. Minister De Silva, you have the floor, sir.

STATEMENTS BY MINISTERS

[Continuation thereof]

MID-ATLANTIC WELLNESS INSTITUTE COMMUNITY GROUP HOMES

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

Mr. Speaker, mental health and the treatment of mental health are issues which we sometimes find difficult to discuss. But I would like to rise this morning to give credit where credit is due.

The Mid-Atlantic Wellness Institute, usually referred to as MAWI, has successfully been providing its learning disability and community mental health service users with group homes in the community for many years. Mr. Speaker, this is a best-practise approach for which MAWI should be congratulated. In fact, it was highlighted as a leading practise by Accreditation Canada in their recent visit.

In the past, people with learning disabilities lived in state hospitals or institutions. However, over the past few decades, these facilities have been closing down all over the world, and only a few remain. Similarly, since 1991, MAWI began to integrate their service users into the community. They started moving learning disability and community mental health service users out of the institution and into community group homes.

Today, Mr. Speaker, MAWI operates community group homes throughout the island from Dockyard to St. David's, all of which are staffed by live-in coordinators. In fact, there are 15 learning disability group homes which provide home environments for 79 service users. There are an additional 17 community mental health group homes which provide housing for 37 service users. Mr. Speaker, that is 116 people who in the past would have been sheltered at MAWI, but are now living normal lives in the community.

Recent research indicated that 80 per cent of family members prefer community living to inpatient treatment. Having service users in the community has also resulted in an increase in visits from family members, which means an increase in social interaction for service users. This is beneficial to the family and to the service user.

This programme is supported and successful because it is about providing better care and ensuring better lives for a very vulnerable group of people, who will thrive more in a community setting rather than being locked away together in an institution.

For learning disability service users, group homes are their permanent home. Providing these residents with a home life environment with support enables them to experience a much improved quality of life compared to an institutionalised care environment.

Over the last 20 years, MAWI has been gradually transitioning its service users to home environments through a mix of purpose-built accommodations such as the housing provided by Project 100 two years ago and rental accommodation.

One more learning disability group home opened up in this fiscal year with space for five people. Mr. Speaker, this leaves only five residential learning disability service users onsite at Mid-Atlantic Wellness Institute. The additional space available on campus has enabled a new day service to be offered in Bayview and increase the capacity for respite care. This allows those who care for learning disability service clients to have a break, by temporarily housing their loved ones with the Mid-Atlantic Wellness Institute.

Mr. Speaker, I ask that this Honourable House join me in congratulating the Mid-Atlantic Wellness Institute on the success of their Community Group Home Programme. Thank you.

The Speaker: Thank you, Minister De Silva, the Honourable Member from Southampton East Central.

Any further speakers?

I now recognise the Honourable Member, Mr. M. Weeks, from Pembroke East Central.

Minister Weeks, you have the floor, sir.

MINISTRY OF COMMUNITY DEVELOPMENT

Hon. Michael Weeks: Good morning, Mr. Speaker, and Members of this Honourable House.

I rise this morning still marvelling at the difference one week can make. The last time I was present in this Honourable Chamber, it was as the Minister without Portfolio. Today I rise, deeply humbled by the great confidence that the Premier has shown in me by appointing me as the Minister of Community Development.

Mr. Speaker, many within our country have called for Bermuda and Bermudians to embark on a journey of revitalisation and renewal. I have heard that call, and the Ministry of Community Development represents the path that we will take to get to our destination. Establishing this Ministry from the ground up will be a challenge, but it is not one that I shy away from. On the contrary, it is a challenge that I willingly embrace. I have always believed that I am here to serve, and I intend to continue to do just that to the best of my ability.

Mr. Speaker, the work of the Ministry of Community Development will be dynamic and will raise the bar on a number of fronts. It is time to get out

of the boardroom. It is time for us to reconnect with those whom we serve. It is time for us to arrive at solutions from the ground up by staying close to those communities which, while challenged in so many ways, find the resiliency to continue to move forward.

Mr. Speaker, please allow me just a few minutes to identify some of the component bodies within the Ministry. I am particularly happy that in the first instance our efforts will be directed toward a restructured and revitalised Bermuda Youth Council and toward implementing tasks associated with the Mincy Report on young black males [*A Study of Employment, Earnings, and Educational Gaps between Young Black Bermudian Males and their Same-Age Peers*]. The Bermuda Youth Council, which recently had its first meeting, will be the vehicle for allowing this group of young people representing their peers to have direct access to the decision-makers in Government.

The Council comprises members from both the public and private senior school systems, and from many organisations which serve the educational needs of our young people. The Council is also a balanced one that reflects Bermuda's racial demographics and the need for greater gender diversity.

[Gavel]

Hon. Michael Weeks: Thank you, Mr. Speaker.

We recognise that our young people need a voice. The Bermuda Youth Council is there for a vitally important venue for their voices to be heard. Through the Council, young Bermudians will be able to express their opinions on a host of issues, and their recommendations will be considered and, where practicable, acted upon.

Mr. Speaker, similarly, the recommendations from Professor Ronald Mincy's final report on young black males also speak to the need for this commitment to young Bermudians. The programmes developed as the result of the report are designed to meet the needs of underserved out-of-school youth and young adults and will provide them an opportunity to acquire the academic, technical, and vocational training necessary to benefit not only them, but also their families, and at the end of the day, our community.

You may be aware, Mr. Speaker, that while serving as the Minister without Portfolio, I began work on implementing some of the recommendations from the Mincy Report. And so I am pleased to note that I can continue the body of work which will now be shifted to the Ministry of Community Development.

Mr. Speaker, we have been tasked with the implementation, specifically, of Job Corps. The Mincy-recommendation programmes will be established for young persons between the ages of 16 to 24, although it may be necessary to increase the stated age range at the upper level to 30. As mentioned, Job Corps will provide the ability to allow these young

people to build career pathways and increase their value to potential employers, who will partner with us and the young people involved in making this programme a success.

Now, granted, it is still early days yet. But this programme, along with other programmes and initiatives that will be put in place through other Ministries, such as the Ministry of Economy, Trade, and Industry, the Ministry of Education, the Ministry of Youth, Families, and Sport, will powerfully assist this Government in the growth of a more robust and efficient youth and workforce development system or systems.

Mr. Speaker, the retooling of the Bermuda Youth Council, together with the implementation of the recommendations from the Mincy Report, will be the central focus of our efforts over the coming months as we seek to put in place programmes and systems to strengthen our young people. In the weeks to come, I will share more specific information about progress in these areas with you and the Members of this Honourable House.

In addition, I have been heartened by the growing support and by the buy-in from many stakeholders in the community, particularly from the private sector. This is important, because our private sector partners will play a key role in making our efforts successful.

Mr. Speaker, the goal to revitalise and renew our purpose will extend to the parish councils, which now fall under my remit. The parish councils are an under-utilised asset, really a gem, if you will, in plain sight. I firmly believe that parish councils, along with our community and workmen's clubs, have a critical role to play within their respective communities. I will be visiting with all of the councils to determine how to move forward collaboratively.

Mr. Speaker, the Department of Community and Cultural Affairs, under the leadership of Mrs. Heather Whalen, is a priceless part of the Ministry of Community Development, and I look forward to working with Mrs. Whalen and her team. We recognise that culture is, by its very nature, dynamic. It cannot be stagnant, or it will wither and die. It must breathe and live, fed by the community in which it exists. In turn, the community must nurture those aspects which enrich our cultural growth, understanding and enjoyment.

We will ensure that our artists, particularly our young artists—our writers, our filmmakers, our musicians, our painters, our sculptors, et cetera—will be nurtured and encouraged to produce a body of work that will continue to tell Bermuda's story.

Mr. Speaker, let us not forget the critical role played by the Bermuda National Library, which will be headquartered within the Ministry. We firmly believe that libraries also form a part of our mosaic, representing our cultural legacy. We will work with our libraries under the leadership of Mrs. Joanne Brangman to make certain that Bermudians have continued access

to the research and other materials that are so vital to our understanding of the world and of ourselves.

Charities are an important sector within our civil society also, Mr. Speaker. They strengthen the bonds between us in ways that many may not always appreciate until when in need. In former times, the charitable sector of Bermuda performed tasks such as comforting the sick, taking care of those who were orphaned, and providing aid and sustenance to the poor. I am committed to the efficient and effective management of this sector, and to its future sustainability for the benefit of all Bermudians.

Mr. Speaker, I would also like to acknowledge the new Permanent Secretary for the Ministry of Community Development, Ms. Marva O'Brien. Ms. O'Brien, Mr. Speaker, formerly served as Assistant Cabinet Secretary for Policy, and I look forward to further developing the partnership that we both already enjoy.

In closing, Mr. Speaker, let me reiterate: I firmly believe that it is time to get out of the boardroom and to reconnect with those who have chosen us as the Honourable Members of this House. They have charged us with a great responsibility. This Minister, together with the team at the Ministry of Community Development, will do everything that we can to move the young ideas into action in order to achieve the deliverables on performance that this Government and country expect.

There are tens of thousands of decent people all up and down the length of this country. These are the hardworking people who seek to raise their families in safety, to provide a good education for their children, and to live in peace and harmony with their neighbours. These are the people whom we serve, and this Ministry and this Minister will never forget that simple, yet powerful, truth.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister Weeks.

Oh, I thought there was another Statement. No?

[Inaudible interjection]

The Speaker: Okay. We will move on.

Any further speakers?

I now recognise the Honourable and Learned Member, Mr. M. Scott, from Sandys North, the AG [Attorney General].

Minister Scott, you have the floor.

BACKGROUND ON LEGAL EXECUTIVES (REGISTRATION) ACT 2011

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

Mr. Speaker, preceding its debate, may I take this opportunity to provide some context to the introduction of the Legal Executives (Registration) Bill

2011. It is, sir, an initiative to provide a legislative framework which will serve to enhance the profile of a heretofore virtually unrecognised professional niche within Bermuda. It promises to pave the way for meaningful growth in the legal executive profession at a time when our economy and especially our young people stand to benefit from doing so to widen the range of meaningful employment opportunities.

The aim of this initiative, Mr. Speaker, is not only to protect the use of the title of "legal executive" within Bermuda, but also to make provisions for that designation to finally be recognised and regulated within our jurisdiction, as it has long been in others. A corresponding aim, Mr. Speaker, is to heighten its profile and professionalism and to protect it from the inherent hazards and low standards of being unregulated and professionally unrecognised.

Mr. Speaker, the policy impetus preceding this initiative began in January of 2006, when the Attorney General was approached by the Chairman of the Institute of Legal Executives (ILEX) with a draft Bill proposing minimum standards and qualifications for legal executives in our Island. Mr. Speaker, to put it in an historical context, ILEX was established in 1963 in the United Kingdom, with the help and support of the Law Society of England and Wales

It can be characterised as the UK's professional body for legal executives with an examination board providing qualifications for legal executives, paralegals, and legal secretaries. Traditionally, persons carrying out these functions were not formally trained in law, but through practical experience had built up a working knowledge of specific aspects of the profession, so that they could make a living by performing such primary paperwork functions.

ILEX's existence, Mr. Speaker, and mandate demonstrates that almost a half-century ago in the UK it was officially recognised that those who function as legal executives perform a vital service worthy of recognition and prescribed standards of operation. Mr. Speaker, within that context, as relates to Bermuda, the said proposed Bill of 2006 initially contained provisions to limit the use of the title of "legal executives" to those with defined qualifications to hold it. Thereafter, in 2007 in December, the President of ILEX visited Bermuda and met with a number of Government officials, including the then-Attorney General and the Premier, and received widespread support for this initiative.

Mr. Speaker, the effect of this policy will be to protect the title "legal executive" in law in Bermuda so that it can only be used by a person whose name is included in the Bermuda Register for Legal Executives, and who is suitably qualified to carry out the work of a legal executive. In order to be eligible for registration, a person must possess either Bermudian status or spousal employment rights, or hold a permanent residence certificate or another valid immigration permit entitling that person to work in Bermuda as

a legal executive. In addition, that person must be qualified as a Fellow of the Institute of Legal Executives of England and Wales, or hold an equivalent qualification from a Commonwealth jurisdiction.

Mr. Speaker, it was considered important to protect the title while simultaneously ensuring that the provisions of any legal services in Bermuda were not adversely affected. In particular, the title "legal executive" does not confer any rights of audience on legal executives, nor does it authorise them to conduct certain classes of business or draft certain types of instrument. The Bill will not affect the continuing rights of the Bermuda Bar. And, as it is a self-contained legislation, it will not require consequential amendments, aside from the Government Fees Regulations 1976 to prescribe an application fee for registration.

Sir, as stated, these intended measures have received widespread support from a number of former Government officials including three former Attorneys General. The current draft legislation has been circulated within the Institute of Legal Executives and has met with the approval of that body per the standards for the profession and the measures necessary to uphold those standards. It has also been determined, as part of the policy development process, that implementation of the proposed framework should not cause undue difficulty or expense. The Bill was drafted with reference to other professional registration acts, and consequently the logistics of setting up the contemplated register and council are already well established in familiar administrative practises.

Sir, this is an initiative that is anticipated to benefit those in the legal executive profession, as well as those they serve. The effect of the protection it will afford will further provide minimum standards of expertise and knowledge upon which the public and employers may safely rely, thus establishing a level of consumer protection in this area, which is currently lacking. Additionally, the educational facilities in place locally, coupled with the contemplated protection, would provide further opportunities for Bermudians, in particular young men and women, to develop a stable and respectable career in the legal services sector.

Ultimately, Mr. Speaker, the realisation of this policy promises to add much-needed accreditation to an indispensable service that augments the legal profession. It will do so to the benefit of those Bermudians in the profession and those in the foreseeable future who will turn it to a career of choice.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister Scott, the Honourable and Learned Member from Sandys North.

Any further Statements?

I now recognise the Honourable Member, Mr. D. Burgess, from Hamilton East.

Minister Burgess, the Deputy Premier, has the floor.

Minister?

SUMMER STUDENT EMPLOYMENT INITIATIVE

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

Mr. Speaker, I rise this morning to provide the Honourable Members of this House and those listening by way of radio of the Summer Student Employment Initiative within the Ministry of Public Works that commenced last month. The objective of this initiative is to ensure that as many students from high school to university level have gainful employment during their extended summer break.

Mr. Speaker, each summer the Ministry of Public Works is inundated with requests from students and the parents of students to secure employment within the particular fields they may have chosen to study. Coupled with this are the standard requests for less-specific employment where students are simply trying to earn funds to support higher education. With the expected surge of applications from our students, along with the many concerns relayed to me from students and parents because of the lack of jobs that would be available to them this summer, I determined that because of the economic downturn, my Ministry would do its part to take on as many students as possible.

As a result, I met with my acting Permanent Secretary [PS] and Chief Financial Officer [CFO] and meticulously reviewed our budget to see where we could find some funding to support our students. Training and travel were the areas identified and, as such, we are now in a position to take on nearly double the number of students we had in the summer of 2010.

After my meeting with the PS and the CFO, I requested that they meet with the heads of departments within my Ministry to locate as many positions within those areas that we could to place the students for the summer. As a result, we are able to find positions in the areas of accounting, purchasing, and supply; the asphalt plant at the Government Quarry; the road crews within the highway section; the aquarium, museum, and zoo; solid waste section; the Tynes Bay Waste-to-Energy Treatment Facility; telecommunications; human resources; the water sections; to safety and health.

Mr. Speaker, I am pleased to advise that our Ministry accepted its first group of returning university students on May 2nd, as well as a number of Bermuda College students. We were to create 60 spots which are now all assigned to these students. This is nearly double the number we were able to take onboard last summer in our ongoing commitment to do our part for the students.

Based on these efforts, it is hoped that the Summer Student Employment Initiative will further reduce the number of unemployed young persons during the long summer, which could result in less-

desirable activities and thus compound our social issues.

Mr. Speaker, to accommodate as many students, the Ministry also reviewed its existing fee schedule for summer students based on our consultations with the banks and other private companies to ascertain what their summer students would be remunerated for a week's work. It is projected that our Ministry will spend approximately \$345,000 on this initiative, with the salaries ranging from \$400 a week for high school students, \$500 a week for Bermuda College students, to \$575 a week for university students.

Mr. Speaker, we look forward to having the students with us this summer. Thank you, Mr. Speaker.

The Speaker: Thank you, Minister Burgess, the Honourable Member from Hamilton East.

Are there any further Ministerial Statements?
We will move on.

REPORTS OF COMMITTEES

The Speaker: There are none.

QUESTION PERIOD

The Speaker: All right. The Honourable Member, Mrs. Jackson, from Pembroke South West, wants to put a question to the Minister of Health.

Mrs. Jackson, what is your question?

QUESTION ON MAWI COMMUNITY GROUP HOMES

Mrs. Louise A. Jackson: Thank you, Mr. Speaker.

My question is to the Minister, if he could advise this Honourable House if this move of clients of MAWI to group homes has resulted in a reduction in staffing of psychologists, psychiatrists, and social workers at MAWI and in the group homes?

The Speaker: Thank you, Mrs. Jackson.
Minister De Silva is going to respond.
Minister?

Hon. Zane J. S. De Silva: Mr. Speaker, I cannot answer that question specifically at this point in time. But I will get that answered.

The Speaker: You give an undertaking?

Hon. Zane J. S. De Silva: I give an undertaking.

The Speaker: The Minister gives an undertaking to get the answer to that question.

Mrs. Jackson, is that the only question you wish to put?

Mrs. Louise A. Jackson: At the same time—

The Speaker: Is there a supplementary?

SUPPLEMENTARY

Mrs. Louise A. Jackson: A supplementary, yes.

The Speaker: Yes. Mrs. Jackson has a supplementary.

Mrs. Louise A. Jackson: If he can please advise this Honourable House, if the number of professionals—that is, psychologists, psychiatrists, and social workers—have increased or decreased from MAWI in the last calendar year?

[Inaudible interjection]

The Speaker: Yes, I thought so, too.

The Minister has given an undertaking to get the answer.

We will move on.

I now recognise the Honourable Member, Mrs. Gordon-Pamplin. Mrs. Gordon-Pamplin wishes to put a question to Minister Minors.

Mrs. Gordon-Pamplin, what is your question?

QUESTION ON TECHNOLOGY LEADERSHIP FORUM INTERNSHIP PROGRAMME

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

I wonder if the Minister could advise this Honourable House of all of the participating partners in the Technology Leadership Forum so that students who may have an opportunity to further explore their opportunities for the summer . . . we do not have the entire list of those in the forum.

The Speaker: Minister Minors is going to respond.
Minister?

Hon. Patrice K. Minors: Thank you, Mr. Speaker.
I read out the names of the participating—

Mrs. Patricia J. Gordon-Pamplin: That is everybody?

The Speaker: I thought I heard it, but anyhow—

Hon. Patrice K. Minors: The second-to-last paragraph. Yes.

The Speaker: Do you wish to read that again, Minister?

Hon. Patrice K. Minors: No. What I will do is . . . Yes, that is all of them, because I actually have here before

me the relevant training components that are supported by all the . . . and if you wish for me to exemplify that, I can do that. But they represent those that are contained in the . . . yes.

The Speaker: Thank you, Minister Minors. The Honourable Member is satisfied with the response.

I now recognise the Honourable Member, Dr. Gibbons from Paget East. Dr. Gibbons wants to put a question to Minister Weeks.

Dr. Gibbons, you have the floor.

QUESTION NO. 1 ON MINISTRY OF COMMUNITY DEVELOPMENT

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

Mr. Speaker, my first question is, What is the budgeted funding and staffing levels for Mr. Weeks', the Minister's new Ministry for the 2011/12 year?

The Speaker: Minister Weeks is going to respond.

Hon. Michael Weeks: Thank you, Mr. Speaker.

This new Ministry will be per the budget that I have gotten from the other existing Ministries, so it is contained in the annual budget. I will give you specifics at a later date.

The Speaker: Thank you, Minister.
Dr. Gibbons, supplementary?

Dr. the Hon. E. Grant Gibbons: Supplementary, Mr. Speaker?

The Speaker: Yes. Supplementary one.

SUPPLEMENTARY

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

What additional spending and staffing, if any, will the new budget represent over current budgeted departments, such as National Library and the Community and Cultural Affairs Department?

The Speaker: Minister Weeks is going to respond.
Minister Weeks?

Hon. Michael Weeks: The budget is already in place, and I do not anticipate any new staffing. Everything is being reviewed, Mr. Speaker.

The Speaker: Thank you, Minister Weeks.
Dr. Gibbons, do you have a further—

Dr. the Hon. E. Grant Gibbons: I have a further question, Mr. Speaker.

The Speaker: Is it supplementary to this?

Dr. the Hon. E. Grant Gibbons: No. It is a further question, if I may, Mr. Speaker.

The Speaker: Right. Question number two.

QUESTION NO. 2 ON MINISTRY OF COMMUNITY DEVELOPMENT

Dr. the Hon. E. Grant Gibbons: Second question: The question for the Minister is, How many of the Mincy Report—and I believe it was a 2006 report, but maybe the Minister can help me—how many of the Mincy Report recommendations have been implemented to date?

The Speaker: Minister Weeks, do you wish to respond?

Hon. Michael Weeks: I do not have an answer to that right now. But a detailed report will be presented to the House.

The Speaker: The Minister has given an undertaking to get the answers for the Honourable Member.

Dr. Gibbons, is there a further question, supplementary?

Dr. the Hon. E. Grant Gibbons: Supplementary, Mr. Speaker.

The Speaker: Yes?

SUPPLEMENTARY

Dr. the Hon. E. Grant Gibbons: Yes, thank you.

If the Minister would not mind also adding this, and that is, What recommendations, in addition to how many, what recommendations have been implemented to date, if any? Thank you.

The Speaker: Minister Weeks is going to respond.

Hon. Michael Weeks: Mr. Speaker, I think that is a very important question. I will present the details of that in a further session. I have just become the Minister yesterday.

The Speaker: Yes. And I know there is going to be a report, I understand.

[Inaudible interjection]

The Speaker: Yes. All right.

The Minister will supply that later.

I am going to recognise the Honourable Member, Mr. Swan. The Honourable Member, Mr. H. Swan from St. George's West.

Mr. Swan, what is your question?

QUESTION NO. 3 ON MINISTRY OF COMMUNITY DEVELOPMENT

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

A question to the Honourable Minister Michael A. Weeks, Community Development, with regard to the Youth Council: Would the Minister be prepared to give an undertaking for the continuance of the Youth Council well beyond the next election period?

The Speaker: Minister Weeks, do you care to respond?

Hon. Michael Weeks: To the best of my ability, Mr. Speaker. And I can say that during my administration, it will definitely be vibrant, and the things I put in place, hopefully, will continue. But I cannot . . .

The Speaker: Thank you, Minister.
Yes?

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

The Speaker: Take your seat, Minister.

Hon. Hubert (Kim) E. Swan: Mr. Speaker, a follow-up.

The Speaker: Mr. H. Swan has a further question.

Hon. Hubert (Kim) E. Swan: In the interest of balance, would the Honourable Minister be prepared to allow Members of the Opposition to appoint Members to the Youth Council?

The Speaker: Minister Weeks, do you care to respond?

Hon. Michael Weeks: Mr. Speaker, I will take that under advisement.

The Speaker: Yes. It is only the Minister that appoints. You can make a recommendation, however, to the Minister. The Minister appoints.
Is there a further question?

QUESTION NO. 4 ON MINISTRY OF COMMUNITY DEVELOPMENT

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

This also to the Honourable Member, Mr. Weeks, Minister of Community Development, with regard to the parish councils. Would the Minister be willing to also look at the Opposition having the opportunity to recommend to the Minister members to serve

on the Council, or whether or not the Minister is prepared to entertain elected parish councils?

Thank you, Mr. Speaker.

[Inaudible interjections]

The Speaker: Minister Weeks is going to respond.

Hon. Michael Weeks: First of all, Mr. Speaker, which Opposition is the Minister referring to? But seriously, in my Statement I did make it clear that we have gone through all sectors of the community in choosing members, appointing members to the Youth Council—male, female, black, white, and all high schools.

Thank you.

The Speaker: You are on your feet. We cannot have everybody on their feet at the same time.

Now, Mr. H. Swan.

SUPPLEMENTARY

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

Just a supplementary to the Minister, in the spirit of other appointments where—

The Speaker: Question?

Hon. Hubert (Kim) E. Swan: Yes. Would the Minister be prepared to entertain Opposition input as is done in other areas in the constitution—

The Speaker: Well, I do not think that . . . The Minister has already answered that question.

I now recognise the Honourable Member, Mr. D. Butler.

Mr. Butler has the floor.

QUESTION NO. 5 ON MINISTRY OF COMMUNITY DEVELOPMENT

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

It seems to me [that this is] Minister Michael Weeks' new appointments day. So let me follow up with a question for this very determined, energetic, and vibrant Minister.

I would like for him to inform the House as to why he has included charities. Why have charities been included in his Ministry?

The Speaker: Minister? Minister Weeks, do you care to respond?

Hon. Michael Weeks: Thank you, Mr. Speaker, and thank you to my honourable colleague. I will try to answer that.

There are many charitable organisations in Bermuda, as we all know. There are at least 400, as I

am made to understand. And there has not always been a level of oversight to ensure compliance with the legislation governing charities. So I will seek to provide guidance in this regard.

The Speaker: Thank you, Minister Weeks.

Hon. Dale D. Butler: Question, Mr. Speaker?

The Speaker: Is there a second question?

Hon. Dale D. Butler: Thank you.

The Speaker: I hope the Minister knows where his office is.

[Laughter]

Hon. Dale D. Butler: Hey, he just got the job, and he is answering every question whether he has an office or not. Mr. Speaker, therefore, I ask the Minister—

The Speaker: He was only appointed yesterday.

Hon. Dale D. Butler: It makes no difference.

The Speaker: Give him a chance to find the office.

Hon. Dale D. Butler: He is on the ball!

The Speaker: What is the question, Mr. Butler?

QUESTION NO. 6 ON MINISTRY OF COMMUNITY DEVELOPMENT

Hon. Dale D. Butler: He has answered every question. I want to know if he can answer this one: How will this new Ministry assist in decreasing the youth violence in our community?

The Speaker: Mr. Weeks, the Honourable Member Mr. Weeks, do you care to answer?

Hon. Michael Weeks: Yes, Mr. Speaker. I think that is an excellent question. This new Ministry will seek to address the issue of this new violence by offering alternative healthy choices; i.e., through engagement and using the vehicle of the Bermuda Youth Council and other agencies that we are trying to get together.

Thank you.

The Speaker: Thank you, Minister Weeks.

I am going to take the Honourable Member, Mr. Hunt, the Honourable Member Mr. D. Hunt,—

Mr. Donte O. Hunt: Thank you, Mr. Speaker.
Mr. Speaker, this question is for Mr. Weeks.

The Speaker: —from St. George's South, Mr. Hunt.

QUESTION NO. 7 ON MINISTRY OF COMMUNITY DEVELOPMENT

Mr. Donte O. Hunt: Minister Weeks, with the appointment of the new Permanent Secretary for the Ministry, can you indicate whether this represents additional costs beyond that which were budgeted?

The Speaker: Minister Weeks?

Let Minister Weeks respond.

Hon. Michael Weeks: No. There is no additional cost.

The Speaker: Thank you, Minister.

The Honourable Member, Mrs. Gordon-Pamplin, from Paget West, has a question to the new Minister.

QUESTION NO. 8 ON MINISTRY OF COMMUNITY DEVELOPMENT

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

I wonder if the Minister would inform this Honourable House whether he will prioritise the completion of all of the outstanding audit reports for the parish council—financial statements for the parish council?

The Speaker: Minister Weeks, are you going to respond?

Hon. Michael Weeks: I think that has always been an ongoing thing. And just “yes.” Yes. It will continue.

The Speaker: Thank you, Minister.

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

QUESTION ON SUMMER STUDENT EMPLOYMENT INITIATIVE

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

My question is directed at the Honourable Member Derrick Burgess on the Summer Employment Initiative. We have seen the two Ministerial Statements on summer programmes, and I just wondered if it is possible for this particular Minister—he is also, I think, the Deputy Premier . . . Will we be seeing any other initiatives from other Government departments as far as summer employment goes?

Thank you.

The Speaker: Does the Minister wish to respond?
Minister Burgess is going to respond.

Hon. Derrick V. Burgess, Sr.: Mr. Speaker, that is an inappropriate question. You know, I read my Statement. The question should be based on the Statement that I produced.

The Speaker: The Minister is right.

[Laughter]

The Speaker: No further questions?
We will move on.

CONGRATULATORY AND/OR OBITUARY SPEECHES

The Speaker: There are none?

I am going to take the Honourable Member, Mr. W. Roban, from Pembroke East.
Minister Roban has the floor.

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

I just would like to have a congratulatory note sent to the Grace Methodist Church on North Shore, Pembroke, for celebrating this past weekend their 111th anniversary. This is a long-standing, prestigious institution of the community, particularly to those who are native to Devonshire and Pembroke. Despite being a church with a quite mature membership, they have managed a number of things over recent years—to manage their own affairs well, to continue to keep the church in good state, to provide a service to their community. They now have a new pastor, Pastor Lowe, and they had an inspiring speech done by Elder Betty Furbert Woolridge.

So I just wish to ensure that they are congratulated for continuing as one of our country's long-standing institutions to clearly have battled and won the test of time. And I hope they have many more years ahead of them.

Thank you, Mr. Speaker.

The Speaker: Thank you, Minister Roban.

I am going to take the Honourable Member Mr. H. Swan, from St. George's West.
Mr. Swan, you have the floor.

Hon. Hubert (Kim) E. Swan: Mr. Speaker, I rise on a very sad note to ask this House to send condolences to the family of the late Dennis Fostine-DeSilva, a very good friend of mine from Warwick Parish. The Honourable Member Mr. Marc Bean, his MP, would like to be associated, as well as the Honourable Members Mr. Zane De Silva, Dr. Gibbons, Mrs. Gordon-Pamplin, and other Members of the House.

Mr. Fostine-DeSilva, Mr. Speaker, was a devout family man. He loved horses. I first met him in 1971 at Port Royal Golf Course, listening to him and Walter King talk about Shelly Bay racetrack. I got to

know him further when we came together at Castle Harbour where he was a member and I was the assistant golf pro, back in 1980. We played a lot of golf together. I certainly had to keep a watchful eye on Junior, and I paid the consequence. The last message I received from him was this week [was], "Give me a call. I need to talk with you. This is the guy that rode over your golf ball twice at Castle Harbour when you weren't looking and you should have been paying attention."

[Laughter]

Hon. Hubert (Kim) E. Swan: He was a dear friend. The more, over the years, that we argued and had confrontations about politics and golf and the like, the closer we got together. I have lost a dear friend, someone that I can say I loved to be around and I will truly miss. His wife, collector of customs, Winniefred Fostine-DeSilva, his son Jason, his son Dennis, Jr., I know them very well, spent a lot of time. I took the opportunity to call some of his friends overseas that we know through golf. And anyone in the golfing industry and horses and the taxi industry, transportation industry, Bermuda in general, have lost a real Bermudian, I mean a real, real, real, real down-to-earth Bermudian in my good friend Junior Fostine-DeSilva.

Mr. Speaker, it saddens me to have to bring these condolences to his family. And I was shocked when I found out because I found out by returning his call. And I just want to ask that a suitable letter, if possible, be sent to his loving family.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Swan, the Honourable Member from St. George's West.

I now recognise the Honourable Member, Mr. D. Butler.

Mr. D. Butler, from Warwick North East, has the floor.

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

I would like to be associated with the remarks made by the Honourable Mr. Kim Swan.

I had spoken to him a couple of days before. He used to send e-mails, and I feel that the comments that have been made are excellent. So I would like to be associated with them, a genuine solid Bermudian who was always interested in his country.

So, Mr. Speaker, when the saints go marching in, I have no doubt that he will be there, along with Mr. Edmund Owen "Willie Gollie" Galloway, who passed, a man who grew up on Angle Street, loved Angle Street, loved his country. He attended the Central School. He joined the Gombeys at a very early age, and he perfected a step called the "High Step." The former Minister of Culture, the Honourable Glenn Blakeney, tried to do it this past May 24th, but he could not quite make it.

[Laughter]

Hon. Dale D. Butler: So, I commend him for trying.

So, Mr. Galloway was known for working on the *Queen of Bermuda* and the *Ocean Monarch*. He was married to Ruth Elizabeth Rattary [PHONETIC], and they developed a fine family together. So I ask that the House send to Mrs. Ruth Elizabeth Rattary Galloway the House's condolences. He was well represented by members of the Port Workers' Division, who recognised his outstanding contribution to Bermuda docks over the years of his working there.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Butler, the Honourable Member from Warwick North East.

Any further speakers?

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

Mrs. Gordon-Pamplin has the floor.

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

Mr. Speaker, I rise to ask that this Honourable House send a note of congratulations to David Dodwell of The Reefs, who, once again, through his consistent and persistent standard of excellence, received the highest professional honour from the Caribbean Hotel & Tourism Association in that he has been named the 2010 Caribbean Hotelier of the Year. He has, as you know, The Reefs, here in Bermuda, as well as the Nisbet Plantation Beach Club in Nevis.

Mr. Dodwell has more than four decades of hospitality career experience, and this is not the first time that he has actually been honoured by international recognition. But for this particular event, he was honoured in the areas of hotel operations, food and beverage, marketing, property maintenance, staff training and motivation, as well as his commitment to the environment.

Mr. Speaker, I do not know of any more complete honour that one could get, because if you look at that range of areas for which he was recognised, it runs the full gamut of everything that is required to run a successful business, and, certainly in the hospitality industry, in very difficult times.

So I would ask that this Honourable House join me in sending a note of congratulations to a former Member of this House, in fact, David Dodwell. Thank you, Mr. Speaker. And the Honourable Member, Mr. Kim Swan would like to be associated.

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

Are there any further speakers?

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

Dame Jennifer has the floor.

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

Mr. Speaker, I rise to ask that the House send congratulations to Paget Primary's Reading Ambassadors. The P4 class of Cann did, as their community service project, read to the students at Warwick Preschool. I think that that is a great project and a great example of peer group activity.

I also ask that congratulations be sent to Andresa Julien-Osborne, who this year held her second annual successful Girl Talk conference with some 80 young girls attending. This year the focus was on sisterhood and self-esteem.

I also ask, Mr. Speaker, that the House send congratulations to Nurse Linda Russell, who was the recipient of the Eliza Doolittle Society's ICAN Award. "ICAN" stands for "I care for a neighbour." She was presented for her work in the community because she is an outstanding example of that activity.

Mr. Speaker, I also ask that congratulations be sent to Christ Church in Warwick, who have not only talked the talk, but I would say "walked the walk" by opening up a unit in their church to help people who live on the street. They offer hot showers and laundry, and while you are actually doing your laundry and having a shower, they offer a little bite to eat as well, so that they are truly caring for the least of those, in what they do. And I ask that we recognise their work and congratulate their project, which is called "Loads of Love," and was inspired by a former minister at the church, Reverend Barry Dunsmore, who is involved in a similar project in the UK.

Finally, Mr. Speaker, I ask that we send congratulations to young Justin Trott Ray [PHONETIC], who was the top scorer in the primary schools cricket between his side from Purvis and West End. Unfortunately, there was no East End school involved in that.

[Inaudible interjections]

Hon. Dame Jennifer Smith: Mr. Speaker, the students of CedarBridge Academy who performed at a Power Breakfast in leading the morning devotionals, it was Ucal Phinn, Julianna Akole, Reshay Rott, Chrissant Bean, Lateef Trott, Lenay Place, Davina Jones, Aalai Wolffe, and Sheneve Campbell. Not pictured was Shaquia Emory [PHONETIC], who read the scriptures. They did a wonderful job representing Bermuda's best, and their teacher, Mrs. Stephanie Castro, said they were awesome, and she was glad they participated in such an event.

Thank you, Mr. Speaker.

The Speaker: Thank you, Dame Jennifer, the Honourable Member from St. George's North, Minister of Education.

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

Mr. Swan, you have the floor.

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

It really just occurred to me, but, Mr. Speaker, I would think this House might join me in sending some congratulations. This past week, we had an act of—I will call it heroism on behalf of three (I believe it was) gentlemen who rescued a citizen of this country from what would have been certain, perhaps, death, trapped in her car at the edge of a cliff. I cannot remember the gentlemen's names, but I will get that and put that in my form when I fill it in. They rescued her out of her car teetering on the edge of a cliff in the vicinity of, I believe, the Fairmont Hamilton Princess golf club.

Mr. Speaker, I have also had the opportunity to read recently where that very same hotel has a par-3 course which has been nominated as one of the top five par-3 courses in the world. I believe it is incumbent on us to send congratulations to them. I stay away from that course, and that is probably why it is in good shape.

Those are my only comments. I would like to be associated with the comments to Mr. Dodwell, who is a constituent of mine, although, for some reason, I believe those congratulations were done before, Mr. Speaker. Thank you.

The Speaker: Thank you, Mr. Swan.

Any further speakers?

I am going to take the Honourable Member, Mr. M. Bean.

The Honourable Member, Mr. M. Bean, from Warwick South Central, has the floor.

Mr. Bean?

Mr. Marc A. R. Bean: Good morning, Mr. Speaker, and good morning, Honourable Members.

Mr. Speaker, I too would like to be associated with the remarks given by the Honourable Member, Mr. Swan in regards to the condolences for Mr. Junior Fostine-DeSilva. He is a constituent of mine, and I would like . . . Well, the last time I saw Mr. Fostine-DeSilva, in fact, I canvassed, and the Honourable Premier accompanied me into the house of the Fostine-DeSilvas, and we had a really good talk and discussion as to the current and future state of Bermuda.

Naturally enough, I know Mr. Fostine-DeSilva, too, through his golf and taxi tourism business. And so it came as a great shock to know that he has recently passed away.

Likewise, Mr. Speaker, I ask that the House send congratulations to three people who received a fellowship in the Institute of Chartered Accountants. One was Mr. Darren Johnson [PHONETIC], the other was Auditor General Ms. Heather Jacobs Matthews, and Mr. George Holmes. I think that the entire House would like to be associated with those congratulations, as they have obviously attained the highest standard

and recognition, based on merit, within their profession.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Bean.

Any further speakers?

Premier?

I recognise the Honourable and Learned Member Minister Premier Cox.

Madam Premier, you have the floor.

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

Mr. Speaker, I certainly would like to be associated with the remarks of condolence sent to our collector of customs, Mrs. Winniefred Fostine-DeSilva. Notwithstanding her time of trial, she has taken the time to respond to e-mails of condolence, and certainly she takes great comfort from those expressions that have come to her family.

Mr. Speaker, I would like to single out for congratulations the Caron Foundation and their first inaugural awardee for outstanding service, Mr. Peter Durhager, who was honoured last night in a very moving tribute. They certainly acknowledged his service, his commitment to those who need to have treatment and who have found themselves hurting and have needed an umbrella of comfort and coverage. I think it was certainly very moving, and I think certainly what touched everyone was when you saw his two little girls in the film that was attributed to him.

Mr. Speaker, I do not normally use this opportunity to commend civil servants. But I think I would like to, particularly because some of them are in the House today. I want to commend the Assistant Financial Secretary on Treaties, Mr. Wayne Brown, and his team, represented by Ms. Laura Hershey, the Treaty Assistant, as well as Mr. Dennis Simons, as well as the AG's [Attorney General's] Chambers. We have had, Mr. Speaker, a conference which has certainly helped to put Bermuda on the map with the OECD [Organization for Economic Cooperation and Development] this week. And it would not have happened but for the support, assistance, diligence, and hard work of this team that sits within the Ministry of Finance.

I must also commend part of the protocol team. We had a Mr. Dean Parris, who was able to assist us from the Bermuda Hospitals Board, as well as the protocol team represented by Ms. Deborah Pitt and Mr. Carlton Tyrell and their team.

Mr. Speaker, we have had not just, I think, a lot of substance, but also there has been the opportunity for Bermuda entertainers. I would like a clarion call to go out to all those who helped to participate to make this week not just important from the point of view of Bermuda's pivotal role, but also in terms of showcasing Bermudian entertainers and artists.

Thank you, Mr. Speaker.

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

And in that connection, I want those who are here sitting in the Speaker's gallery, please stand and let them see you.

[Desk thumping]

The Speaker: You got complimented on a job well done. Thank you.

Any further speakers?

I now recognise the Honourable Member, Minister P. Minors.

Minister Minors, from Smith's North, has the floor. Minister?

Hon. Patrice K. Minors: Thank you, Mr. Speaker.

I would like to be associated with the condolences being extended to the family of Mr. Dennis Fostine-DeSilva. And also, while mention was made of The Reefs, there is a more current congratulation I would like to extend to them, and that is pertaining to their La Serena Spa, which got recognition by *Condé Nasté [Traveler]*, I believe, as the top spa in the Caribbean, if not . . . I will go so far as to say the Caribbean, for sure. Many who have been to this spa can attest to the wealth of talent and attention that they get at that facility.

That is it, Mr. Speaker.

The Speaker: Thank you, Minister Minors.

I now recognise the Honourable Member, Dr. Gibbons, from Paget East.

Dr. Gibbons, you have the floor, sir.

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

Mr. Speaker, I would also like to be associated with the condolences to the family of Junior Fostine-DeSilva. He was certainly a character, one who made his opinions clearly known and certainly had some very interesting and valuable opinions, as well. My honourable colleague, Mr. Barritt, would also like to be associated with those condolences.

While I am on my feet, Mr. Speaker, I would like to be associated with the congratulations, as well, (although I think somebody mentioned it last week) to the new Fellows of the Chartered Institute of Accountants, George Holmes, Heather Jacobs Matthews, and Darren Johnson; as well as to Peter Durhager, of RenRe, on his award by the Caron Group.

Thank you, Mr. Speaker.

The Speaker: Thank you, Dr. Gibbons, the Honourable Member from Paget East.

Any further speakers?

I now recognise the Honourable and Learned Member Minister M. Scott, from Sandys North.

Minister, you have the floor.

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

Mr. Speaker, I wish to join the Members of this Honourable House in offering my condolences to Mrs. Fostine-DeSilva, the collector of customs, on the loss of her husband. Mrs. Fostine-DeSilva for a very short period became my acting Permanent Secretary within AMTECH, and she is a wonderfully delightful, professional civil servant, and my heart goes out to her at this time of loss. To lose a husband is, obviously, tough.

Mr. Speaker, during the course of this week—and Madam Premier has stood—Madam Premier and the Minister of Finance is the lead Minister that pushed out the ship into the wonderful sea of the OECD Conference, one of the largest OECD Conferences ever held. And she led it.

We know that when the band has played and the leader of the band is introducing his members, someone from the band stops and says the same thing about the drummer. I do not know whether the Premier wants to be the organ player or the keyboard player on this occasion.

[Laughter]

Hon. Michael J. Scott: But Madam Premier has done an excellent job with this OECD Conference. Mr. Speaker, on the opening morning, I saw both Mr. Parris and Mr. Tyrell. They invited me to go and look into the conference room. I have been to a few overseas conferences around the world and in the Caribbean and Paris. I have never seen such a splendid arrangement of both technology and imagery for driving the pictures, and the room itself. I have never seen one so big.

And so I join Madam Premier in commending her team, the TIEA [Tax Information Exchange Agreement] team, the protocol team. I wish to associate the Minister of Business Development and Tourism, Minister Minors. And, of course, I add the assistance from my Chambers, from the AG's Chamber. A job well done! They stuck with this for three days, going into the deep of the night, particularly the protocol officer team, making sure that these conference arrangements were first class. And I attended some of the entertainment functions, and to a note, the representatives and delegates were all raving about Bermuda's beauty, our hospitality, and the good arrangements that have been made.

So, Madam Premier, I commend you as the leader of this initiative.

I think those are the matters. Yes, thank you, Mr. Speaker.

The Speaker: Thank you, Minister, the Honourable and Learned Member from Sandys North, Minister Scott.

Any further speakers?
We will move on.

MATTERS OF PRIVILEGE

The Speaker: There are none.

PERSONAL EXPLANATIONS

The Speaker: There are none.

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

The Speaker: There are none.

INTRODUCTION OF BILLS

The Speaker: I now recognise the Honourable and Learned Member Minister M. Scott, from Sandys North, the Attorney General.
Minister Scott?

Hon. Michael J. Scott: Mr. Speaker.
I am introducing the following Bills for their first reading:

FIRST READINGS

PRIVATE INVESTIGATORS AND SECURITY GUARDS AMENDMENT ACT 2011

Hon. Michael J. Scott: Firstly, on behalf of the Minister of National Security, the Honourable Wayne Perinchief, who is absent temporarily from the House, I introduce the Private Investigators and Security Guards Amendment Act 2011.

POLICE AND CRIMINAL EVIDENCE AMENDMENT ACT 2011

Hon. Michael J. Scott: I further introduce, under the Ministry of Justice, the Police and Criminal Evidence Amendment Act 2011.

LEGAL AID AMENDMENT ACT 2011

Hon. Michael J. Scott: The Legal Aid Amendment Act 2011.

LEGAL EXECUTIVES (REGISTRATION) ACT 2011

Hon. Michael J. Scott: And the Legal Executives (Registration) Act of 2011.
Thank you, Mr. Speaker.

The Speaker: Thank you, Minister Scott, the Honourable and Learned Member from Sandys North.

There is no leave of the House required under Standing Order 28.

NOTICES OF MOTIONS

The Speaker: There are none.

ORDERS OF THE DAY

The Speaker: That brings us to the Orders of the Day, Orders of the Day for Friday, June 3rd. Order No. 1, Second Reading, the Specified Business Legislation Amendment Act 2011, in the name of the Honourable Member Madam Premier, who is the Finance Minister.

Madam Premier has the floor.

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

Mr. Speaker, I move that the Bill entitled the Specified Business Legislation Amendment Act 2011 be now read the second time.

The Speaker: Any objection?
Agreed to.

[Gavel]

The Speaker: Carry on, Madam Premier.

SECOND READING

SPECIFIED BUSINESS LEGISLATION AMEND- MENT ACT 2011

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

Mr. Speaker, I am pleased to present the [Specified Business Legislation Amendment Act 2011](#) for the consideration of Honourable Members. The Bill seeks to amend various pieces of specified business legislation to ensure consistency, transparency, and compliance with international tax information exchange standards as recommended by the Organisation for Economic Cooperation and Development (the OECD).

Mr. Speaker, this debate comes at the heels of Bermuda's hosting an extremely successful global forum on transparency and exchange of information for tax purposes at the Fairmont Southampton Hotel. Mr. Speaker, in keeping with the objective of effective information exchange, the Organisation for Economic Cooperation and Development structured the peer review assessment under which all jurisdictions which have substantially implemented the internationally agreed tax standard would undergo two assessments:

The Phase 1 assessment examines the regulatory and the legal framework of a jurisdiction in order to determine if the process of effective exchange of information can occur between jurisdictions.

Phase 2 of the assessment determines the effectiveness and efficiency of each jurisdiction's regime and tax information exchange agreements to receive, process, and effectively exchange information.

Mr. Speaker, during the first quarter of 2010, Bermuda, along with seven other jurisdictions, underwent an exhaustive peer review process. The first part of this detailed process involved the completion of a peer review questionnaire. The questionnaire was completed by the Ministry of Finance in order to provide the assessors with an early indication of Bermuda's legal and regulatory framework.

Mr. Speaker, Bermuda's legal and regulatory framework was subsequently reviewed by three assessors—one from Japan, one from the Kingdom of the Netherlands, and an OECD official. The assessors looked at all legislation as it relates to our business, legislative, and regulatory regime. The primary purpose of this review was to determine whether or not Bermuda's business, legislative, and regulatory framework was in line with the G20 and OECD standards, which are commonly referred to as the "internationally agreed tax standard."

The assessors looked at the issue of facilitation for exchange of information mechanisms for tax purposes, and reviewed Bermuda based upon 10 essential elements, divided into three areas, which are as follows:

1. availability of information,
2. access to information, and
3. exchange of information.

Mr. Speaker, the outcome of the assessment, which is known commonly as the peer review report, determined that Bermuda was one of two jurisdictions from a total of eight jurisdictions assessed in that first wave of assessments to receive an "all elements in place" rating. However, the assessors noted that Bermuda's framework was inconsistent and made recommendations to address the inconsistency in the peer review report.

The primary purpose, Mr. Speaker, of this Bill is to address the recommendations contained in the three areas of the peer review report. The Bill was certainly circulated, and also there was consultation. And it was determined that there was a need to strike the appropriate balance for Bermuda between maintaining an internationally compliant regime for the exchange of information on tax matters, while also preserving Bermuda's unique and successful business model.

The legislation is extremely important, as it will accomplish three important objectives. Mr. Speaker, it certainly has to be noted that while Ber-

muda's current peer review report under Phase 1 is very positive, you will recall that there is a two-step process. It also is not permanent, as Bermuda is expected to implement the recommendations in a timely and effective manner. Preferably, implementation should take place within 12 months from the date of the September 2010 Singapore Global Forum [on Transparency and Exchange of Information for Tax Purposes], when Bermuda's peer review report was officially adopted.

The peer review report will be periodically reviewed, and any recommendations which have not been implemented could cause Bermuda to get an "element not in place" determination during Phase 2 of the assessment process. This has a negative effect in our international reputation and increases the likelihood of Bermuda being labelled as a noncompliant jurisdiction and subject to G20 and OECD punitive measures.

Mr. Speaker, as part of the consultation and collaboration, the Ministry of Finance certainly reached out to industry stakeholders, and we certainly also developed a consultation paper. The representatives of the treaty unit met with the industry stakeholders, including the Bermuda First Group, members of the trust industry, the Insurance Advisory Committee, to discuss the consultation paper. That paper, Mr. Speaker, addressed, really, issues in relation to Bermuda's legal and regulatory framework and focused on our current legislation versus the OECD recommendations. Invited comments were also requested and suggested.

So, Mr. Speaker, given some of the comments, we took the position that, notwithstanding the recommendations made by the OECD, and despite the fact that we got an "elements in place" assessment, we felt that even though we have a Phase 2 coming up and we want to ensure that we meet the test, not all of the recommendations could sensibly be adopted by us in one fell swoop. And we wanted to show good faith and go forward with those things which we thought would not be detrimental or injurious to us, and also show that we are an honest broker. But we also take the position that it is not always more regulation, but intelligent regulation, and also the need to be sensitive to and sensitive of our particular model.

So, Mr. Speaker, what you will hear as we get further into committee, and even as I talk further on this side of the committee process, are some of the positions that we took, which we believe are both defensible and justifiable, looking at the larger picture in terms of protecting our national economic interests.

Mr. Speaker, we believe and consider that this Bill will ensure that Bermuda meets the majority, even if not all, of the recommendations put forward in our Phase 1 assessment and per the OECD internationally agreed tax standard. This Bill, Mr. Speaker, will also increase the probability that Bermuda will obtain

a determination of “elements in place” in the Phase 2 assessment, which will occur in the second half of 2012.

Mr. Speaker, certainly under the peer review report, it was determined that under Bermuda’s current legislation regime, ownership and identity information requirements relating to ownership of business entities are in place. In some cases, the law does not provide for penalties for non-compliance with obligations to maintain ownership and identity information, especially with regard to companies and partnerships. Furthermore, the peer review report noted that Bermuda should consider introducing effective sanctions.

The Ministry of Finance reviewed the legislation of selected competitive jurisdictions, such as Jersey, Guernsey, the British Virgin Islands, and the UK, and determined that the Crown dependencies along with the UK have introduced a range of fines, with the maximum being £5,000, which is approximately \$7,500. In the British Virgin Islands company law, the fines are as high as \$10,000.

Mr. Speaker, the Exchange Control Act 1972 provides for additional penalties with respect to entities that fail to comply with the requirements for maintaining ownership information. The Bill amends the Exchange Control Act to increase the penalty for failure to comply with the direction of the controller to provide information. The present fine is \$1,000 on summary conviction and \$5,000 on indictable conviction.

There is, Mr. Speaker, no separate requirement under the Exempted Partnerships Act 1992 to keep information on the general partners. However, exempted partnerships are required to seek the permission of the Bermuda Monetary Authority [BMA] for any change in the general partners. Where the partnership does not seek the permission to change a partner, there is a power vested in the Registrar of Companies, who is under the authority of the Minister of Business Development and Tourism to apply to the court to wind up the partnership. The court may support the order or impose a fine of \$5,000 where the person has knowingly not complied with the Act.

Mr. Speaker, the Bill further amends the Exempted Partnerships Act 1992 to increase the current fine for failure of a partnership to keep records of its accounts, from \$5,000 to \$7,500, and applies a sanction if such information is not held by the exempted partnership for a minimum of five years. In similar fashion, Mr. Speaker, the Bill amends the Limited Partnership Act to increase the current fine of \$5,000 to \$7,500, and also applies a sanction if information is not held by the limited partnership for a minimum of five years.

Under the Partnership Act, the Bill incorporates a requirement for the partnership to hold records for five years, with a sanction for non-compliance. Under the Overseas Partnerships Act [1995], there is currently an express obligation to report changes to

the general partners, and there are measures to enforce this obligation, including the power to revoke a permit as well as a power for the BMA to impose a fine. The default fine is currently \$20 per day for failure to seek permission for such changes. This Bill increases the fine and incorporates an obligation on such partnerships to hold records of account for five years with a sanction for non-compliance.

Mr. Speaker, the peer review report on Bermuda noted that there are inconsistencies regarding the obligation to keep information by private trust companies acting as trustees. Private trust companies are not regulated under anti-money laundering regulations, and there is no express obligation to keep records. However, private trust companies are subject to common law and must know the settlers and beneficiaries. And while most private trust companies engage a licensed financial intermediary, subject to anti-money laundering regulations, they are not mandated to do so. This will not change at this time. However, the Bill does introduce a requirement to maintain information on trusts, which the private trust company or other exempted persons who act as trustees and for the private trust company or other exempted persons who act as trustees to hold records, for a minimum of five years, with a sanction for non-compliance.

Mr. Speaker, in response to one of the recommendations in our Phase 1 assessment, the Bill also amends the Companies Act [1981] to expressly provide that companies retain for a period of five years the records of account. The peer review report noted that the competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information. This is irrespective of any legal obligation on such a person to maintain the secrecy of the information.

The peer review report found that Bermuda has this element in place to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person who is within the territorial jurisdiction. The assessors did, however, note that Bermuda’s search and seizure powers under the U.S.A.–Bermuda Tax Convention Act 1986 should be extended to all exchange of information requests made by all of Bermuda’s TIEA partners. The Bill provides for this by amending the International Cooperation (Tax Information Exchange Agreements) Act 2005. The assessors noted, Mr. Speaker, that for purposes of the International Cooperation (Tax Information Exchange Agreements) Act 2005, there was an offence for not complying, with a notice issued by the competent authority. But the penalty was low, and they noted that the effectiveness of the regime should be reviewed during the Phase 2 review.

Accordingly, the Bill increases the penalty for failure to respond to a notice issued by the Ministry of Finance under the International Cooperation (Tax Information Exchange Agreements) Act 2005.

Mr. Speaker, it is noted that the International Cooperation (Tax Information Exchange Agreements) Act [2005] might possibly be assumed to refer only to tax information exchange agreements. But because Bermuda has signed a double taxation agreement with the Kingdom of Bahrain, the definition of the term “agreement” is being clarified for the avoidance of doubt, so that it expressly includes double taxation agreements and other treaties or agreements that have as a minor part of them the exchange of information for tax matters. This is provided for, Mr. Speaker, in this Bill.

Finally, Mr. Speaker, the Bill makes changes to the time frames in which the Ministry of Finance can retain information received under the International Cooperation (Tax Information Exchange Agreements) Act [2005] before providing it to the requesting party.

Mr. Speaker, that sets the context for the changes proposed in this legislation. You will note that it speaks, really, to the recordkeeping and also time frames because, obviously, if we are talking about tax information exchange agreements, what you have to ensure is that your legislation is consistent and that there is no impediment, having signed up to the principle of tax information exchange, to take reasonable and realistic measures to be able to provide that it is able to be properly applied when one has a requesting party or a competent authority making a request.

So that sets the context, Mr. Speaker. As I indicated, we are changing a number of related and ancillary legislation by this one Act, and also conforming certain aspects. And this is in response, Mr. Speaker, to . . . Notwithstanding that we have an “all elements in place” with regard to Phase 1, we are setting the stage for Phase 2 assessment and making sure that we continue to attract that same high rating.

Thank you, sir.

The Speaker: Thank you, Madam Premier, the Honourable and Learned Member from Devonshire North West, the Minister of Finance.

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

Mr. Richards, you have the floor, sir.

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

I think that on tax matters such as this people’s eyes tend to glaze over, and particularly in the detail that has been presented by the Honourable Minister of Finance.

I would like to, in fact, sort of step back quite a few paces to look at the broader issues relating to . . .

that really give rise to the legislation that we see before us today.

The Preamble of the legislation talks about this thing called OECD, Organization of Economic Cooperation Development. We need to know . . . I think we know who the OECD is. They are a, sort of, club of major countries in the world, US, UK, Germany, France, et cetera. It is one of these animals that came out of the ashes of World War II, in fact.

But as it relates to us in Bermuda, I think people should think about, What are the goals of the OECD as it relates to us? What is its essential nature? Because I think that is important insofar as the frame into which we put the amendments that we see in front of us. So what is the essence of the OECD, and what is Bermuda’s relationship with it? Or might I say, what should be Bermuda’s relationship with the OECD as it relates to this global forum on taxes? because the OECD does a lot of other things other than tax work. But our interaction with the OECD always seems to be about taxes. It is never about anything else; it is always about taxes.

So in order to sort of explore this, we need to go back to basic principles, I think. And I think that what we can look at insofar as OECD countries are concerned is their approach to taxing their people. Essentially, in OECD countries, they tax whatever they can get their hands on, basically. They tax income from labour. They tax income on capital, corporate property’s income on capital. They tax dividends (another result of capital) and they also tax capital gains and interest. All these things have to do with capital.

And you put all those things together—the tax on capital and the tax on income from labour—and that is what we know as income tax. Okay? But they also have other taxes. They have property taxes, they have taxes on consumption (which is like VAT [value-added tax] taxes in Canada), GST [goods and services tax] taxes. And they have user fees as well. Of course, after you die they have taxes on your estate.

While they have all those taxes—and it is clear that taxes in those countries have come down since the beginning of the, sort of, Thatcher–Reagan era—it is still fair to say that the OECD is a club of high-tax nations.

Now, contrast that to Bermuda. In Bermuda, we have taxes. We all know that. That is a lot of [what] we do up here. The first thing, we have taxes on income from labour. It is called payroll tax. We have taxes on consumption, customs duties. We have tax on property. We have tax after you die; we have estate taxes or stamp duties, et cetera. And we also have a plethora of user fees, as well.

What we do not tax in Bermuda is capital. We do not tax profits, we do not tax dividends, we do not tax capital gains or interest. We do not tax capital in Bermuda. Period. Similarly, the notion that Bermuda has no taxes or is a so-called “tax haven,” that is a

false notion. But I think that you can safely say Bermuda is a low-tax jurisdiction because we do not tax capital.

And it is important because I think that if we did tax capital, we would not have a financial industry in Bermuda. I mean, that is just a truth. You know? When the Honourable Minister brought legislation—I think it was earlier this year—about the Government's undertaking not to tax capital, there was unanimity in this House that that was a good idea. And that legislation had been delayed for awhile, and I think people in the business community were relieved that that undertaking was finally extended.

So it is an important fact that . . . you know, we do not like to talk about it much. But it is a key element that supports the offshore financial industry, international business as we call it. It is one of the key supporting factors of that industry, the fact that we are a low-tax jurisdiction.

Why is that important? It is important because the flow of capital needs to be as efficient as possible. Capital is something that, if it is not handled properly or efficiently, costs business a lot of money. And inefficiencies for the flow of capital would be taxes, would be regulation, excessive regulation; and other Government interference tends to be viewed as an inefficiency for the flow of capital.

So, our job as legislators, people who are responsible for the wellbeing of Bermuda, is to ensure that that capital which comes to Bermuda—because it views Bermuda as a place of capital efficiency—is to see that that efficiency is not eroded by our own actions.

Our system in here was not put in place, as we all know, to attract foreign capital. It was put in place for our own reasons. The reasons were because we had a small Government, and we did not want to put any infrastructure to have income tax. To do it was to be just too burdensome in a practical way.

So there is a fundamental difference between the philosophy as it relates to taxes of Bermuda and in Bermuda and OECD countries—a fundamental difference. And for a long time, that difference did not matter. They did not care. But once globalisation took hold and every corporation in an OECD country became a multinational corporation, all of a sudden the game changed. Because these companies, these corporations, in these OECD countries figured out that it would be really beneficial to their shareholders if they reduced their cost of capital by using places like Bermuda.

Just to give you an example, Mr. Speaker, it was revealed a couple of months ago that the General Electric Company [GE], which is one of the largest companies in the world, also one of the largest companies in the United States, for their global operations paid no tax in 2010. Zero tax. That is a multinational corporation. And that, of course, was applauded by

their shareholders, but it was looked upon askance by tax collectors.

So there is a fundamental difference in philosophy between the OECD members, particularly the ones that are participating in the forum that was just held in Bermuda, who are essentially representative of their government as opposed to representatives of companies in their countries. And they see that they are losing revenue to offshore financial centres. That is how they see it. And they do not like it. They do not like it at all.

Now, they are looking to try to recover some of this tax that they have lost from what they now . . . All of a sudden, you know, in the late 1990s or the mid-1990s they started to characterise offshore financial centres as somehow shady tax havens. And “tax haven” became a pejorative.

Now, it first happened, I think, in 1995–1996 (1996, I am hearing in the background), where Bermuda was put on a list of so-called “harmful tax jurisdictions.” I am sure Members remember that. And we had to scramble to change our legislation to remove ourselves from the list of a harmful tax jurisdiction. And that was initiated by the OECD, the same outfit we are talking about now. We had to put in legislation that related to the proceeds of crime at that time.

When we did that, Mr. Speaker, we thought that was it. We thought we were done. We were okay. But a few years later, we had an initiative from the IMF [International Monetary Fund]. Now, the IMF and the OECD are different. But I can tell you, the members of the club of the OECD are the same people that run the IMF—the same people. You know now that right now, Mr. Speaker, there is a contest as to who is going to be the next managing director of the IMF.

The Speaker: Yes, yes, yes.

Mr. Everard T. (Bob) Richards: And that person is coming from France. Right? And you know what? France is one of the big hawks insofar as places like Bermuda is concerned. So it is the same people.

So when the IMF came after us for anti-money laundering type of activities, we complied. We complied and put in all kinds of things to get us on the right side of the IMF. After we did that, we thought we were home and dry. We thought we were done. But just in a matter of a couple of years, all of a sudden there was this other initiative from the OECD where we had the white list, grey list, and black list. And much to our astonishment—and I am sure, to the Minister's chagrin, and to the chagrin of the rest of us, quite frankly—we were not on the white list! We thought we had done everything that we needed to do to please these people.

[Laughter]

Mr. Everard T. (Bob) Richards: But, no. It was not enough. It was not enough.

So, we found out that we needed to sign some more TIEAs. And dutifully, the Minister and her team sitting here today went to work. And they signed TIEAs all over the place. I think that originally we were supposed to have 12 TIEAs and we would be okay. We signed, got the 12 TIEAs signed, and we thought we were okay. But guess what? We were not okay. There was more required of us.

Now, I hear from the Minister, the Honourable Minister, that there is another thing called a peer review process. And it is not just one of them. There are two peer review processes. I think Members are starting to get a picture here that every time—every time we jump through one of their hoops—

The Speaker: The goal posts move?

Mr. Everard T. (Bob) Richards: No, Mr. Speaker! They just invent another one! They invent another hoop for us to jump through.

You know, it is just amazing. It is never enough for this four-letter word, OECD—never enough for them!

[Inaudible interjections and general uproar]

Mr. Everard T. (Bob) Richards: Now, I can hear it from the interpolations that they got the message. They got the message.

The Speaker: I think all Honourable Members understand this.

Mr. Everard T. (Bob) Richards: That is right.

And what it comes down to, Mr. Speaker, is that there is a fundamental difference in philosophy as it relates to a tax between offshore financial jurisdictions like Bermuda and members of the OECD. The problem is that, you know, the OECD, and their members in particular, are indeed the 800-pound gorilla. We, in relative size, are not even the size of a flea. That is the essential issue.

So we have been jumping through hoops like a flea jumping. You know, you go to the flea circus, fleas jumping through hoops. Well, that is us, fleas jumping through hoops. And every time we jump through one, another hoop magically appears.

So the problem with that is that every time we comply, it adds another layer of bureaucracy onto Bermuda, and we have to hire more civil servants, rent more office space, pay more health insurance, pay more pension contributions, and require more tax revenues from Bermudians and Bermuda residents to pay for it all.

The ultimate effect of this, if we just keep going on *ad infinitum*, is that it will make us so expensive that that tax, that capital efficiency that I was talking

about earlier, the advantage that we have will disappear. That is the problem. That is the problem.

[Inaudible interjections]

Mr. Everard T. (Bob) Richards: I am hearing chirps that, “What is the solution?”

Well, you know, Mr. Speaker, it seems to me I am the first person who is identifying the problem! You cannot have solutions unless you identify the problem.

[Inaudible interjections]

Mr. Everard T. (Bob) Richards: Now, let me say this, Mr. Speaker. The fact is that these consequences that I am talking about are not unintended consequences. They are intended consequences. That is what they are. This has been done on purpose; let me be clear. This is being done on purpose. You know, members of the OECD think that we are siphoning off money that should be theirs; it is as simple as that. And they are going about it in an organised and systematic way to rectify that situation.

Now there is this thing called a Multilateral Convention on Mutual Administrative Assistance in Tax Matters. What a mouthful. But that is, I think, one of the sort of endgames of the OECD, and it is a tool to eliminate not tax evasion—we all know that tax evasion is something that is illegal—[but] its stated aim is to eliminate tax avoidance. And tax avoidance is efforts by companies and individuals to legally lower their tax exposure. This Convention, this endgame is intended to eliminate that.

So, I have had conversations with some of the stakeholders in Bermuda on this matter. While I think certain sectors do not have a problem with it, certain other sectors do. In particular, the trust area has a lot of problems with this. They see that eventually they are just going to be put out of business. And, you know, Mr. Speaker, the fact is that the Bermuda economy is narrowly focused enough as it is. We cannot afford to lose any more sectors. You know, we cannot have ourselves in a situation where the only thing that works in Bermuda is Class 4 insurance. We cannot have that. So, this represents, in my view, not an immediate threat, but I am trying to put the House and the people of Bermuda on notice that this is a threat to our economy. It really is.

Now, what is Bermuda’s role in this scenario? The Honourable Premier has presided over this conference that just finished on our shores. And quite frankly, on the one hand, one cannot help but say it was a good thing. We had hundreds of highly paid people descending on our hotels on our Island, spending money, presumably. So it was a good thing for tourism. You can say that. It was a very good thing for tourism.

But let us consider the nature of our participation in this process, because we have been participat-

ing in this process. And you know, if you put the worst spin on it, you have to ask yourself, How or in what way are we participating in a process whose aim it is to ultimately undermine our major industry? So how does that work? I mean, are we participating in the hope that by being members we can change the course of this process so that we avoid disaster? I think, from some of the things I have heard the Premier say, that might be the approach. But I cannot say that for sure.

Do we think that being friendly and very cooperative we can appease members of the OECD? You know, Mr. Speaker, the history of appeasement in the world is not very impressive at all. I have to say, you know, it was before my time, but maybe not before yours, Mr. Speaker, that in 1938 Sir Neville Chamberlain got up and said, you know, “peace in our time,” and look what happened there. In a year they were in the Second World War. So appeasement does not work very well. At least, the history of appeasement is not very strong at all in the world of what I would call “real politics.” And that is what this is. Internationally, there is a phrase called “realpolitik,” and that is basically what we are dealing with here.

Now, so, can we be friends with members of the OECD?

[Inaudible interjections]

Mr. Everard T. (Bob) Richards: And I have to say, Mr. Speaker, the answer to that question is that you have to look at the essence of the relationship, the essence of the relationship.

[Inaudible interjections]

Mr. Everard T. (Bob) Richards: Now, you know, let me give you an analogy. Can the lion ever be friends with the gazelle? Can the lion be friends with the gazelle? Well, yes. The lion can be friends with the gazelle, so long as the lion is not hungry.

[Inaudible interjections]

Mr. Everard T. (Bob) Richards: So long as the lion is not hungry, the lion and the gazelle can be friends. But the moment that hunger pang hits that lion, it is all over for the gazelle.

Now, you have a similar situation here. That is the kind of relationship we have with the OECD. So long as they are not hungry, we are okay. But the problem is, Mr. Speaker, that after the global crisis in finance of 2008 has happened, every OECD country, and probably all countries, including Bermuda—the governments are ravenous for revenue! Ravenous for revenue. So, Mr. Speaker, the lion is not just hungry. The lion is starving.

So we really have to look at it in that context.

Now, I have been hearing questions, *What do we do?* I think we have to try to look at this thing in a situation that we are really up against it with this. You know, the long-term prospects are not good here. We are really up against it. The issue is, you know, do we keep cooperating and be the flea that jumps through hoops until we run out of energy—because there are always going to be hoops. They have the ability to invent hoops infinitely. I do not think we have the ability to jump through hoops infinitely. I mean, that is pretty clear.

So what do we do? I would like to suggest to the Government that there are other jurisdictions that are in the same boat as we are. We are not alone here. Unfortunately, a lot of those other jurisdictions consider us to be competition. But, you know, Mr. Speaker, the member countries of OECD are also in competition with each other. But they have come together for a common purpose.

So, we should do the same. Because as a flea jumping through a hoop, we have no stroke whatsoever. I heard the Honourable Premier say that size does not matter. She said that, or was so quoted to say that in the media recently. But I am afraid size does matter. Size does matter in this world. You know, I have personally been through situations where, as a representative of a small Island, I have made a contribution in a forum. It happened to be in 1980, a long time ago, at the Federal Reserve Bank in New York. I was in a seminar, and nobody could agree on anything, and the guy from the smallest country there managed to get everybody to agree on a way forward. But that was a tiny victory.

But in the greater scheme of things, size matters a lot! The 800-pound gorilla will have his way. So we need to band together with other offshore financial centres so that we can get some kind of gravitas, because alone, they just keep picking us off against each other. Alone, we stand no chance.

So that is my suggestion to the Government here, you know, that we really need to think about. And I think that Bermuda could be a leader in this area. We could be a leader in this area. But, you see, Mr. Speaker, you have to have the big picture. You have to take into account the big picture before you can get these little things right. When you have got the situation where you cannot see the forest for the trees, then you are going to be lost.

So what I am afraid of right now is that we are facing a creeping intervention by the OECD in these tax matters. It is slowly, but surely happening. It is like the experiment with the frog in the water. You know, you can put a frog in warm water, and he will just stay there happily. You can slowly increase the temperature of that water, and the frog will stay there, and he will become a poached frog. You put a frog in hot water, he will jump right out.

We are the frog in the warm water, Mr. Speaker. And the heat is slowly being increased. The

noose is slowly being tightened, so slow that we might not even notice it. Certainly, the people of Bermuda do not notice.

Now, I think some of the Members on the Government side think I am being melodramatic or alarmist. But I have to say, Mr. Speaker, it is better to sound the alarm when the fire is just smouldering than when it is a full-fledged inferno. By that time it will be too late. So we need to think about our overall relationship with this creeping OECD tax thing—we really do—and how we will combat it on a long-term basis. Because, you know, what I am talking about is not going to happen next year or the year after that. But if we want to have a long-term future as a financial jurisdiction, we really need to pay attention to this.

Now, the specifics of this Act, Mr. Speaker, in my view, are not controversial. They are technical. They are not controversial. But put it in the context of which I have just described, it is a symptom of a serious issue. And I have a sense that somewhere deep in the catacombs of the Ministry of Finance, they know I am right. Because these are intelligent people. And only an unintelligent person would say that I am wrong here. They know I am right. The question is what to do about it. I think that we really need to, sort of, think about forming some relationship with other folks, other countries who are in the same situation that we are, to try to come together to try to combat this problem.

Thank you.

The Speaker: Thank you, Mr. Richards, the Honourable Member from Devonshire East, Shadow Minister of Finance.

Any further speakers?

I now recognise the Honourable Member, Mr. W. Roban. Minister Roban, from Pembroke East, has the floor.

Minister?

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

I just wish to make a meagre, humble contribution to this debate on such weighty legislation, of which I commend the Minister of Finance and Premier for bringing.

I am quite happy to see this for a number of reasons. One, we are, as a government, doing what is required to ensure that certainly we as a jurisdiction are keeping pace with what are, seemingly, understood international standards and requirements. I commend the Honourable Premier for the dexterity with which she and her team planned and executed our efforts to meet the requirements for the minimum TIEAs, number of TIEAs of which we have far surpassed when that unfortunate challenge was put upon us and other jurisdictions.

The Honourable Member just before has mentioned this issue of what happened with the white list, the grey list, the black list, whatever it was at the time. And I would have thought that the Honourable Mem-

ber would have had much more positive things to say as to the fact that, despite being confronted with this challenge, this country stood up—this very small country, perhaps in the eyes of other people, an insignificant country—stood up, faced the challenge, and met it, and met it to the degree upon which we received an invitation to play an executive role on the OECD Global Forum.

Now, I certainly, myself, recall that we have had considerable history with the OECD, Mr. Speaker, going back to when another Member of this House who was sitting on this side was also the Finance Minister and had to jump through hoops, as his honourable colleague said, over to Paris to deal with the potential of this jurisdiction being marked by the OECD as a country that did not have a favourable tax regime back in the mid 1990s, or just before—yes, around the mid 1990s, I think it was. And I do remember the Honourable Member who was then Finance Minister seemingly, if I were to take the description of his honourable colleague, jumping through a whole lot of hoops. He was quite a dexterous flea, jumping through all the hoops that were set up for us in Paris.

But, clearly, the Honourable Member and the Government today felt that it was necessary to jump through those hoops. And I am using their description, Mr. Speaker—this is not my description—of what has to be done to protect Bermuda's interests as an international jurisdiction that was in the business of providing services to international companies. And clearly, the OECD, as a supranational body with an accepted regime that many countries, certainly many countries of which we are competitors and countries that we deal with, felt a need that should be abided by. And we were confronted with this even as far back as 1995 and felt a need to, as the Honourable Member on that side said, as the flea, had to jump through a few hoops.

So I find it quite puzzling that the Honourable Member would seemingly be critical in the manner in which he has been when the very Government that the Honourable Member once represented had itself had to jump through the same hoops, as he described. These are their descriptions, Mr. Speaker, not mine, as fleas in the circus, the global international financial circus, and jump through that flea-circus hoop. They had to do it themselves back in the mid 1990s.

Mr. Speaker, but I just find it quite extraordinary that they are criticising the fact that this Government, saddled with the same responsibilities they once had to deal with, with the issues of international regulatory environment, has had to take the same measures. The Honourable late Eugene Cox followed on with the same sort of purpose as the Finance Minister, and sought to defend our interests in Paris as well, and in other jurisdictions and had to do the same work.

But I also remember, Mr. Speaker, and I did note many of the comments of the Honourable Member who just took his seat, about the picture that the Honourable Member was seeking to paint. Well, frankly, my glasses got a bit foggy because the colours were not quite clear; neither was the picture that the Honourable Member was seeking to paint—not quite clear at all because I have heard this Honourable Member say a number of things, particularly about our efforts to abide by the efforts of the supranational body to regulate the international financial environment, which they have every right to do—the IMF or the OECD or the World Bank or whomever else you want to talk about.

I do recall the Honourable Member when the Honourable Finance Minister brought a report here about the benchmarks which we had to abide by from a more recent, perhaps, IMF report a couple of years ago. The Honourable Member was critical because we had not met . . . I do not know, there were about 30 or so benchmarks we had to meet. The Honourable Member criticised us for not meeting those benchmarks. Now the Honourable Member is saying, “Oh, we should not be abiding by the benchmarks” of the same organisation that he criticised us for not abiding by.

So, I am confused by the picture. My glasses are foggy. The portrait is not quite clear. I am not sure what it is. Impressionist, realism, I do not know. What is it? I do not know. I do not know what the Honourable Member is trying to paint.

Mr. Everard T. (Bob) Richards: Point of order, Mr. Speaker.

The Speaker: There is a point of order, Minister.
Take your seat.

The Honourable Member, Mr. Richards, has a point of order.

POINT OF ORDER
[Misleading]

Mr. Everard T. (Bob) Richards: The Member is misleading the House. I will just point out some facts. I was not saying that they should not do it or should do it. You know, the Honourable Member is trying to make it seem like I have contradicted myself; I have not.

The fact is, I am just relaying a series of facts. And he cannot argue with the facts or reinvent them.

The Speaker: Thank you, Mr. Richards.
Carry on, Minister Roban.

Hon. Walter H. Roban: Well, I think I have every right to argue a point any way I please as long as I abide by the Rules of the House, Mr. Speaker. And if I think

that what he said is obscure or confusing, I will say that. And that is what I think.

[Inaudible interjection]

Hon. Walter H. Roban: I am!

The Honourable Member has contradicted himself in a number of ways over the years on the same point. And I am just highlighting that as a fact to the public and this House. But I have heard the Honourable Member, and he sometimes criticises for not meeting the benchmarks on the same organisation he is now saying that we should be wary of trying to meet. That is very confusing, as I said. I am confused by the picture that the Honourable Member seems to paint. I am not sure if it is an impressionist painting, or if it is a realist painting, or I do not know. I am confused.

An Hon. Member: An abstract.

Hon. Walter H. Roban: I am not even sure if it is an abstract. I know what abstracts are.

But, Mr. Speaker, I will go on.

The Speaker: Yes.

Hon. Walter H. Roban: Because I certainly will not rely on the Honourable Members on the other side to paint the picture that I wish to be guided by. I rely on my Honourable Finance Minister and Premier to paint the clear picture that the Honourable Member always seems to paint around these matters, for the country, of which the country has clearly expressed confidence in her ability to do these things, of which the Honourable Member has shown, as I have already said, through the rising of the challenge to meet the OECD compliance standards around TIEAs and other things, [that she] took our country forward, took her team forward. And they met the benchmarks and have surpassed it to the point of being invited to sit as a leading executive member of the Global Forum among many big countries.

So clearly, Mr. Speaker, our size did not matter. What mattered was the ability and expertise we brought to the table and the experience that was clearly recognised internationally. And we are deserving of that recognition.

I would like to go on, Mr. Speaker. As I look at the—and I will make sure that I am being Parliamentary by saying that we are debating the Specified Business Legislation Amendment Act 2011, and as I look at the legislation, I see listed a number of Acts going back to the 1800s, some more recent, some less recent. Clearly, these are pieces of legislation that are the very benchmark, the very foundation of our international regime that we have in place to facilitate the business that we do and are clearly very successful in doing. The whole world, seemingly, is giving

us that recognition. The recent Conference of last week—or, I should say, earlier this week—is a recognition of Bermuda's position and performance in that.

So, I would certainly . . . And I certainly assume that the Honourable Members on the other side are supportive of the Amendment that we are making, because much of this legislation was passed during their tenure as Government. And seemingly, they felt that it was valuable legislation, that it is sensible to amend legislation of this nature when necessary. And the Honourable Finance Minister is bringing an amendment for us to do just that.

So, despite the utterances of the Honourable Member who just took his seat, I am sure they support what we are doing here. And, Mr. Speaker, as I said before, I did get very puzzled by the picture that was being painted, only because of some of the utterances I have heard from the Honourable Member in the past, which seemingly contradict some of what he was saying today. Perhaps (maybe I am suffering memory loss) I am a little confused. But, you know, those things happen. One is human. But I do recall what I heard.

But be that as it may, I am sure this House will make the appropriate, proper decision around this legislation, which is to pass it. I once again commend the Honourable Finance Minister and Premier for bringing it. The Honourable Member has been passionate—not passionate, but critically affected (if I can use a more proper phrase) in ensuring that our jurisdiction has stood strong in seeking to take note of what is internationally required of us, to responding to any of the critical eye that has been placed on us.

And let us face it, Mr. Speaker. Some of what we have experienced, even if the Honourable Member has distress about it, to some degree, which he has seemed [INAUDIBLE], is a part of being successful. When you are successful, people pay attention to you. And when you are paid attention to, often people require higher standards of you.

So, Mr. Speaker, I am confident that we will continue to meet the high standard that is put on us. I am confident that this legislation is in the spirit of that, and I look forward to its passing.

Thank you.

The Speaker: Thank you, Minister Roban, the Honourable Member from Pembroke East.

Any further speakers? No further speakers?

I now recognise the Honourable Member, Dr. Gibbons, from Paget East.

Dr. Gibbons has the floor.

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

Mr. Speaker, I am going to be relatively brief. I just had to correct a couple of the misconceptions of the former Member who just took his seat.

Let me start by saying that I think to describe this as “weighty legislation” is certainly over the top. I think it would be more fairly described as putting in place concessions that the Minister of Finance believes that we have to make to be able to pass the next round of the peer review, in essence, as my honourable colleague, Mr. Richards, said, *to keep the lion at bay*. And I think it is also probably fair to say that, rather than what I would call changes to the existing legislation which are going to help business in a fundamental sort of way, these are simply adding additional burdens and red tape to our business infrastructure.

Now, obviously, there is a trade-off here, and I think my honourable colleague, Mr. Richards, and the Honourable Member who speaks for Finance have both tried to talk about that balance. But let us not be under any misrepresentation here or under any misconceptions of what we are actually doing. We are simply trying at this point to not get ourselves in trouble with this larger club, which is known as the OECD, as my honourable colleague, Mr. Richards, said.

I have to actually say that I think my honourable colleague, Mr. Richards, did a very nice job in bringing some home truths to this House in terms of what the basic position and philosophy is behind the OECD. The Honourable Member who just took his seat referred to a former Finance Minister who sat on this side. I think he was talking about me at the time, because I was Minister of Finance from 1995 to 1998. And indeed, it was in 1996 that we were rather surprised to find ourselves all of a sudden in the midst of a rather large debate about harmful tax, and we were listed as one of the harmful tax jurisdictions. I think there are a good 30-odd of them, including Switzerland and a lot of our neighbours to the south, and all the rest of it.

I guess, I think it is fair to say that—you may remember, Mr. Speaker, but I think it was Dr. Saul, former Honourable Member of this House, when he was the Finance Minister, who arranged associate status with us with the OECD. We could not be a full member of the OECD because we were not an independent country at the time.

But when we tried to find out whether that associate status would, as it were, cut any mustard with the OECD, when we all of a sudden found ourselves being in the limelight as being a harmful tax jurisdiction, it cut absolutely no mustard whatsoever, Mr. Speaker. There was no quarter, there were no breaks, it meant absolutely nothing. And I think that really speaks to the issue that my honourable colleague, Mr. Richards, is talking about—

The Speaker: The Honourable Member.

Dr. the Hon. E. Grant Gibbons: That is right.

The Speaker: He is an Honourable Member in here.

Dr. the Hon. E. Grant Gibbons: An Honourable Member in here, Mr. Speaker, quite right.

The Speaker: Yes.

Dr. the Hon. E. Grant Gibbons: It speaks to that issue that when there is an agenda and when you are in the way, you know, whatever relationships you may try to build or whatever, may not really have much of an impact, particularly when the lion is ravenous. And the lion is ravenous now.

Now I would like to also correct a misconception on the part of the Honourable Member who did just take his seat about jumping through hoops. In point of fact, our response at the time, in 1996 when this harmful tax jurisdiction came out, Jeffrey Owens, who was director of this particular directorate at the OECD at the time, this harmful tax issue, [was that] we did not jump through any hoops. We did not say, *How high do you want us to jump?* at all. We were all summoned over to London by the British Government, and Cayman was there, BVI was there, Anguilla, and a few others. And in fact, we said, *This is outrageous. We have been accused of being a harmful tax jurisdiction.* Nothing could be farther from the truth. When we talk about exempt companies here, that does not mean they are exempt from tax. What it means is that they are exempt under our legislation, the Companies Act, from ownership rules, things of that sort.

So there was quite a long period of trying to essentially defend. And one of the last things I did, actually, was write a very long letter to the then new Chancellor at the time, Gordon Brown, explaining why our tax system was perfectly appropriate and not something that we should be ashamed of, at the time. So we certainly never jumped through any hoops, Mr. Speaker. We did not ask, *How high do we need to jump?* We said, *Look. We are going to defend our position here.*

So there is another thing which my honourable colleague, the Honourable Member, Mr. Richards, referred to and that was the proceeds of crime. We took a very careful approach to that. The British Government at the time—and this was, again, 1995/1996—was saying, *Look. We want Bermuda—you are sort of the leading jurisdiction out there in terms of what were then the Dependent Territories. We want Bermuda to lead the way on this proceeds of crime thing. We want you to put in the anti-money laundering [AML] legislation first.* And we said, *Hang on a second here. What impact is that going to have on our competitiveness versus Cayman, BVI, and all the others?* And in point of fact, there was (I will just say, diplomatically) a lot of negotiation. The last thing we were going to do was rush into something which certainly a huge cross section of the business community here felt was going to be very counterproductive not only to our competitiveness, but to certainly

put us out in front on something which was going to be very contrary to our interests as an international financial jurisdiction.

In the end we made sure that, as the pressure continued to mount, we were not alone in putting in AML legislation. It was done in 1997, as many Members will recognise.

And if you want an example on that, Mr. Speaker, you need to look no farther than Switzerland, who has been very clear in terms of defending their business infrastructure. They have got a lot more to defend than we do because they have banking secrecy, and that is certainly in the gun sights of the OECD and others. But they have been very clever negotiators in terms of how they have approached this, in terms of resisting things which are contrary to their own interests.

Now, you can say they are larger than us. They have a much larger financial footprint. And all that is true; in fact, they have taken a fair amount of business away from us because of the way they have managed their tax relationship with the United States, and other countries as well.

But I think there is a lesson in all of this. And my honourable colleague, the Honourable Member, Mr. Richards, was not saying, we should not necessarily do this. He is saying, you have got to go into this and clearly understand that your eyes have to be wide open here. Being too anxious to put in some of these things in the long run is contrary to our interests because, as I said, these are concessions. These are not things which will help our business environment, which will reduce red tape, or reduce the cost of doing business in Bermuda. Quite to the contrary, Mr. Speaker, they are things which add to all of those.

So I think it is important to recognise what we are doing here. I think the Honourable Member, Mr. Richards, has laid it out very clearly. It is important that he put the other side of the picture, that this is not all about *Rah-rah* and hosting something which, obviously, is good; it helps Bermuda in terms of the tourism and in terms of being seen to be a player. But at the end of the day, you have got to remember that we are the gazelle and they are the lion, and we have to be very careful when we go to sleep, or to mix my metaphors here, when we sit in that pot of hot water which is slowly getting hotter and hotter.

I will make one more comment just to correct a point that the Honourable Member who just took his seat said. We were critical on the issue of the IMF recommendations which came, I believe, in 2004. We were critical not so much because the Government actually, eventually started to put them in place, but because it took three years before they actually started to move on these. So when the IMF came back again and said, *Oy! You have not done any of this stuff! We recommended this three years ago,* there was an unseemly scramble to try and get this stuff in place to effectively . . . And we all know what

happens when you have an unseemly scramble, Mr. Speaker. You do not have either the negotiating ability or the care which you need to apply to legislation, which again were concessions, not something which improved, necessarily, our business environment.

So that was the issue. There is nothing unclear about what my honourable colleague was saying, although the last speaker seemed to be confused in his own mind as to what this Honourable Member, Mr. Richards, was really trying to say there. That was the criticism last time. And again, I think it was not just criticism or laying down home truths. The Honourable Member pointed out he was also saying, *Look. If you are a gazelle and you understand you are a gazelle, you might want to talk to a few other gazelles, whether quietly or otherwise, to see whether you can work out something to slow down this inexorable process of effectively trying to put us out of business in terms of capital gains, taxation, and other kinds of things, which obviously have a benefit to us, in addition to the broader legislative framework we have built up over many years.*

Thank you, Mr. Speaker.

The Speaker: Thank you, Dr. Gibbons, the Honourable Member from Paget East.

Are there any further speakers?

No further speakers.

That means that the Honourable and Learned Member Madam Premier can respond, or she can take another view.

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

I will respond. And then, of course, I would like to suggest we adjourn for lunch.

The Speaker: Go right ahead, Madam.

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

I think it is very important that we keep some home truths in mind. One is that it would be naïve at best to say that as the world turns, you say, *Stop, world! I want to get off.* That is not on.

Mr. Speaker, the second point I would like to make is that the fact is that we have the OECD. And I think there has been a fundamental misunderstanding by Members of the other side. You have the OECD. Think of that as one party. Then, Mr. Speaker, what you have, because of how they prostituted and compromised their position in April 2009 with that caca you had that spawn the creation of a new mandate and the Global Forum.

The Global Forum is seen as a democratic body, which includes a much more inclusive and representative grouping, which includes the smaller countries who are not necessarily OECD countries, including Bermuda. So you had the transfer of decision making from the Secretariat of the OECD to the Global Forum.

Mr. Speaker, what is important to note is that you must have a seat at the table. You cannot let decisions be made without your ability to sit at the table and represent. And that, Mr. Speaker, is from a point of strategic economic interest and positioning. That is the position that Bermuda has adopted. We not only sit on the Global Forum, which is now under this three-year mandate, which they are looking to extend to have decision-making influence, which has been seeded from the Secretariat, but we also are the vice chair.

Now, Mr. Speaker, Switzerland has deferred action on some matters. And you saw, Mr. Speaker, it leaked in the *Financial Times* this week, and though all these reports are supposed to be secret until they are properly enunciated and released, but you found that they have come under some considerable fire. The position from the Government's point of view, because we recognise—we recognise the vulnerability and the frailty and the importance and the lucrative benefit throughout Bermuda of the trust industry, is that we have said that we will make changes as and when we deem necessary, and have specifically said that on the trust issue, we have not moved.

Now, I do not know if that was not appreciated or understood, Mr. Speaker. But I think that, Mr. Speaker, it is nice to say and hear and sabre-rattle and pound your chest. But there are some home truths. There are some home truths. And that is that there may be equality of right, but not equality of capacity. So we can intellectually sabre-rattle. But let us face it: We are looking [at] and crafting what is in our best interests, strategic, national, economic best interests. And we certainly want to ensure that Bermuda is able to compete. And we talk about a level playing field.

Because you see, Mr. Speaker, you can be transactional. You can be transitional. Or you can be transformational. Some people might seek to stay within a party and have the naïve assumption they can change from within. Then some people might choose that there is this other entity that may be related, but that is exerting influence and leverage. And you get all the people who can have an identity of interest, both small independent states, as well as small overseas territories and others. And that, Mr. Speaker, is both the value, the benefit of the Global Forum, and also the value and benefit of Bermuda being able to represent and put its mark in that race.

But also, we recognise that we are not naïve. We understand the way geopolitical strategies work. And we also know the limits. But that is why there is a certain amount of diplomacy and banding with the identity of interest. So there is tremendous collateral benefit also, both symbolic, actual, perceived, and real, when Bermuda, which was seen as a pariah by some because of their under-informed position—when Bermuda hosts such a pivotal group as was done this week.

With that, Mr. Speaker, I certainly would like to move that this Bill be committed, and I would also like to move that we now adjourn for lunch.

Thank you, sir.

The Speaker: Well, there are two motions then.

Before I put any of them, I just wish to acknowledge the presence of Mr. Jayson Jackson.

Jayson Jackson, will you stand and let us see who you are?

He was judged the Most Outstanding Debater at the Regional Conference that took place last year in Trinidad.

[Desk thumping]

The Speaker: However, it was reported at the Annual General Meeting of the CPA, but our young Mr. Jayson was off doing studies in Latin America. I am not sure whether it was Argentina or Brazil.

[Inaudible interjection]

The Speaker: It was Argentina. And we certainly want to congratulate you on being an outstanding debater.

Now, the Premier has moved that we go into Committee. Maybe we can go into Committee, and then the Honourable Chairman can take the other motion that we adjourn for lunch.

Is there any objection that we go into Committee?

[Inaudible interjections and laughter]

The Speaker: Agreed to.

[Gavel]

The Speaker: Will the Honourable Member, Mr. K. Horton, please take the Chair of Committee?

And then the next motion is that we adjourn for lunch, which you can take.

House in Committee at 12:37 pm

[Hon. K. H. Randolph Horton, Chairman]

COMMITTEE ON BILL

SPECIFIED BUSINESS LEGISLATION AMENDMENT ACT 2011

The Chairman: Thank you.

Members, we are now in Committee to discuss the Bill, Specified Business Legislation Amendment Act 2011.

The Honourable Premier has the floor to decide which way she would like to go.

Hon. Paula A. Cox: Mr. Chairman, I would like to move that we now adjourn for lunch.

The Chairman: Thank you. We now adjourn to lunch until 2:10 pm.

[Laughter]

Proceedings suspended at 12:38 pm

Proceedings resumed at 2:10 pm

[Hon. K. H. Randolph Horton, Chairman]

COMMITTEE ON BILL

SPECIFIED BUSINESS LEGISLATION AMENDMENT ACT 2011

[Continuation thereon]

The Chairman: Good afternoon, Members. We are now in Committee on the Specified Business Legislation Amendment Act 2011, in the name of the Honourable Premier.

Honourable Premier, Minister Cox, you have the floor.

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

Mr. Chairman, I would like to move clauses 1 through 10, inclusive.

Mr. Chairman, the Bill seeks to amend nine pieces of specified business legislation required in pursuance of Bermuda's obligation to implement some of the recommendations of the internationally agreed tax standard of the Organization for Economic Cooperation and Development [OECD], and also to meet certain stipulations of the two-part peer review assessment.

Mr. Chairman, clause 1 provides the citation for the Bill; in other words, the name of the Bill, the Specified Business Legislation Amendment Act 2011.

Clause 2 seeks to amend the Companies Act 1981 to insert a provision to make it an offence for a company not to keep a register of members and to require companies to retain, for a period of five years, the records of accounts—part of transparency, Mr. Chairman.

Clause 3 seeks to amend the Partnership Act 1902 to insert a provision that requires every partnership to keep proper records of accounts for a period of five years and to make it an offence for a partnership to fail to keep such records—again, part of accountability and transparency, Mr. Chairman.

The Chairman: Yes.

Hon. Paula A. Cox: Clause 4 seeks to amend the Exempted Partnerships Act 1992 to increase the pen-

ality for not obtaining the consent of the Authority to change any of the general partners, and to insert a provision to require exempted partnerships to retain, for a period of five years, the annual records of accounts that are sufficient to enable the knowledge of the financial position of exempted partnerships. That, Mr. Chairman, was clause 4.

We now move to clause 5, where we are amending the Limited Partnership Act 1883 to, again, increase the penalty for failure by a limited partnership to comply with the requirements for change of its name or particulars, and to require limited partnerships to keep proper records of accounts for a period of five years, and to make it an offence for a limited partnership to fail to keep such records. That is clause 5, Mr. Chairman.

We now move to clause 6, which is the amendment of the Overseas Partnerships Act 1995, and that is to require overseas partnerships to retain, for a period of five years, the records of accounts that are sufficient to enable ascertainment of the financial position of the exempted partnerships and to increase the penalty for failure by an overseas partnership to comply with these requirements relating to change in the partners and other particulars of the overseas partnership.

In other words, Mr. Chairman, let us suppose that we were to have a case and we were seeking to take enforcement action. If, in the meantime, you have changed the general partner or details of your partnership, persons need to have certainty. They also need to know who the people are whom you are seeking to take action against. And it is a matter that you do not want to hide and duck and weave. Part of transparency, part of disclosure—that is all it is, really, Mr. Chairman.

The Chairman: Thank you, Minister.

Hon. Paula A. Cox: Clause 7, amendment of the International Cooperation (Tax Information Exchange Agreements) Act 2005. This is really, Mr. Chairman, where we are seeking here, in section 2 of this Act, to expand the definition of the term “agreement.”

Remember, Mr. Chairman, when we were in the Committee of the whole House, I indicated that for the avoidance of doubt, and to avoid any ambiguity, you are being quite precise that when you talk about agreement it extends beyond just referring to tax information exchange agreements. Remember, we have a double taxation agreement with Bahrain, and you want to make sure that this is also caught in the ambit of the legislation.

And notwithstanding that, not just DTAs (Double Tax Agreements), but we are saying that any other agreements that are incorporated as part of your TIEA (Tax Information Exchange Agreement) concerning tax—and the term “agreement” shall not be defined to include the convention of Bermuda and the USA as

set out in the USA–Bermuda Tax Convention Act 1986 and the Bermuda Tax Information Exchange Agreement.

Now, also, Mr. Chairman, clause 7 seeks to amend the International Cooperation (Tax Information Exchange Agreements) [Act 2005] to insert, after section 6, a new section to provide for the power to enter premises and obtain information. You hear about these, Mr. Chairman, sometimes in another area of the law when you talk about an Anton Piller order. You know, that was one of the most exciting legal procedures I was once involved in, when you went in. (when you are talking about, say, a libel case, reputation) and you wanted to get the information. I know when I was in London, it was almost like you go in with very much enforcement, get to the company's records, and be able to take out. That is known as an Anton Piller order.

Here, where you are talking about the access to be able to go in . . . because you know sometimes shredding can occur in some other jurisdictions.

The Chairman: Absolutely.

Hon. Paula A. Cox: We are not like that, though, Mr. Chairman. But we want to make double sure. So here it is providing for that provision to enter the premises, obtain information.

In section 8, we are providing, in order to enable the Minister to forward information to a requesting party, and in section 9 to increase the fines from \$5,000 to \$10,000. That is clause 7[(3)], Mr. Chairman.

Clause 8, now, Mr. Chairman, seeks to amend the USA–Bermuda Tax Convention Act 1986 in section 4(3)(b) to give clarity regarding the powers of the Minister to obtain information from a person in Bermuda in control of the information, irrespective of whether the information is in or outside Bermuda. That is clause 8.

Clause 9 seeks to amend the Exchange Control Regulations [1973] in section 50 to increase the fines, and clause 10 seeks to amend the Trusts (Regulation of Trust Business) Exemption Order [2002] to insert a provision for the retention of records of information on trusts and on the financial position of the trusts.

So those are clauses 1 through 10, and those are the areas where we are seeking to amend some of the financial legislation that we already have on the books to provide for those particular provisions that I have just outlined, Mr. Chairman. That is part of the umbrella or remit and catchment area of the Specified Business Legislation Amendment Act 2011—not a very exciting title of legislation, but it is telling you what it is doing, actually, that there are specified pieces of business legislation that we have just outlined which are being amended under the provisions of this Bill.

Thank you very much.

The Chairman: All right. Thank you, Premier, for those explanations.

Does any other Honourable Member care to speak?

I recognise the Honourable Member, Mr. Bob Richards.

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

I just have a question for the Minister. In clause 9, the amendment to Exchange Control Regulations 1973, you are doubling the fine from—

The Chairman: Is that clause 9, you are saying?

Mr. Everard T. (Bob) Richards: Clause 9, yes. Exchange Control Regulations.

The Chairman: Exchange Control Regulations 1973?

Mr. Everard T. (Bob) Richards: That is right, that is right.

These fines are being increased from \$1,000 to \$2,000. I was wondering why that was thought to be necessary when the real teeth in these Regulations are in the original Act. In addition to the fines, the judge or magistrate can charge up to three times the amount of the value of the currency involved. It seems to me to be much more powerful.

So I mean, if you are talking about, just for argument's sake, \$100,000 or something, for some sort of infraction, the Exchange Control Regulations 1973 allow a judge to nail a person for up to \$300,000. I don't know that increasing these things in this legislation has really an impact, because the major stick in this particular thing is much more serious.

The Chairman: Okay, Honourable Member.

Honourable Premier, would you care to respond to that?

Hon. Paula A. Cox: Mr. Chairman, this was thought to be probably judicious. I mean, really we are not seeking . . . as the Honourable Member from the other side said, in the Committee of the whole House . . . [it] is not so much about nailing, but it is about having a measure which is seen as both temperate and moderate, yet still conveys the signal that there is a penalty and that we want you to take it seriously.

The Chairman: Thank you, thank you.

Honourable Member, any other questions?

Does any other Member care to speak?

The Honourable Member, Dr. Gibbons, has the floor.

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

Just by way of clarification, in clause 7, "agreement" is now carving out the tax agreement with the United States. I am wondering whether the Honourable Member could tell us—she talked about coming legislation or, possibly, other amendments—whether there will be amendments in the future as part of this broader group to the US tax agreements that are in place.

Thank you.

The Chairman: Thank you, sir.

Honourable Premier, would you care to respond to that?

Hon. Paula A. Cox: No, nothing that is currently in the offing. But I think we always look at treaty negotiations and see if we can get an advantage.

I think that if there is the opportunity . . . That one was dealt with under a prior administration. But now, with the changing regulatory landscape, if there is the opportunity whereby we can find a way to get greater advantages . . . But I do not think, to be quite honest, at this stage there is anything that is specific in the offing. And certainly, because it is something which is of such significance, if there were to be a change in our positions, this House would certainly be kept fully primed and advised.

The Chairman: Sure.

Hon. Paula A. Cox: But that is where it is. That is one where it is very little that you are going to be able to do at this stage. I think there may be some other treaties and arrangements that we would like to enter into with the US. But there is nothing that is currently on the offing.

The Chairman: Thank you.

Honourable Member?

I think the Honourable Member is satisfied with that response. Are there any other Honourable Members who care to speak to clauses 1 to 10?

Since there are no Members who would like to speak to clauses 1 through 10, I would like to put to the [question].

Those in favour of the [clauses] 1 through 10, as per the Specified Business Legislation Amendment Act 2011, please say Aye. Those against, say Nay

AYES.

The Chairman: The Ayes have it.

[Motion carried: Clauses 1 through 10 passed.]

The Chairman: Honourable Premier, would you care to move the Preamble?

Hon. Paula A. Cox: You know, Mr. Chairman, as I listen to your voice it just reminds me of times to come that are happy. And I think of Cup Match.

[Laughter]

Hon. Paula A. Cox: But in any event, I hope you do not mind me making that reference.

The Chairman: That's quite all right, Honourable Member.

Hon. Paula A. Cox: Because I think about the Ayes, and I think about when you are talking about the batting and the bowling and all that stuff.

The Chairman: Absolutely, yes, yes.

Hon. Paula A. Cox: But anyway, let me get back to specified business.

The Chairman: We are getting their ears used to it, Honourable Member.

Hon. Paula A. Cox: Oh, I see. I see. I see.

Well, let me say I move the Preamble, Mr. Chairman, before you get into talking about technicalities of cricket that I know nothing of.

[Laughter]

The Chairman: Thank you, Honourable Premier.

Hon. Paula A. Cox: And I move that the Bill be reported to the House.

The Chairman: Thank you.

Hon. Paula A. Cox: Thank you.

The Chairman: Any objections to that? I would not think there would be any.

[Motion carried: The Specified Business Legislation Amendment Act 2011 was considered by a Committee of the whole House, passed without amendment, and will be reported to the House.]

House resumed at 2:24 pm

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

REPORT ON BILL

SPECIFIED BUSINESS LEGISLATION AMENDMENT ACT 2011

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

Agreed to.

[Gavel]

The Speaker: We will move to Order No. 2 on the Order Paper, Second Reading, the [Bermuda Small Business Development Corporation Amendment Act 2011](#), in the name of Minister Weeks, the new Minister for Community Affairs.

Minister Weeks, you have the floor, sir.

SECOND READING

BERMUDA SMALL BUSINESS DEVELOPMENT CORPORATION AMENDMENT ACT 2011

Hon. Michael Weeks: Thank you, Mr. Speaker.

Mr. Speaker, the Bill before the House today seeks to amend the Bermuda Small Business Development Corporation Act 1980. In order to establish the Bermuda Economic Development Corporation (or BEDC) to succeed the Bermuda Small Business Development Corporation [BSBDC]—

The Speaker: Do you want to move that it be now considered?

Hon. Michael Weeks: Yes. I will move that it be now considered.

The Speaker: Yes.

Any objection?

Agreed to.

[Gavel]

The Speaker: Carry on, Minister.

Hon. Michael Weeks: Thank you, Mr. Speaker.

—to succeed the Bermuda Small Business Development Corporation as a provider of business management advice, financial assistance to the local small businesses and medium-sized business sectors in Bermuda, and to oversee the operations of the economic empowerment zones including vendor markets.

Since the establishment of the 1980 Act, the BSBDC has been, and continues to be, Bermuda's premier source of free, confidential advice for entrepreneurs. Its mission is to serve Bermuda's small business community with the highest degree of professionalism by providing authoritative business advice, counsel, and loan guarantee support as needed.

Mr. Speaker, whilst individual small businesses were being supported by the BSBDC, the Government was also desirous of encouraging and protecting often overlooked entrepreneurs who could

be found concentrated in certain excluded locations Island-wide. As a result, in 2008, Cabinet approved the BSBDC to establish and oversee an economic empowerment zone agency to have direct responsibility for the economic empowerment zones initiative.

The introduction of this initiative through the BSBDC resulted in an immediate expansion through its remit covering not just small businesses, but medium-sized and large businesses, as well as property owners, community organisations, and residents.

Today three economic empowerment zones exist and are located in the northeast quadrant of the City of Hamilton, Somerset Village and its immediate surrounding area, and the town of St. George's and its immediate surrounding area.

Mr. Speaker, the Government recognised that there was a need to support and encourage the sector of the economy made up of micro-enterprises; i.e., roadside vendors, peddlers, vendors' markets, et cetera, within Bermuda as the smallest end of the small business sector. The sector is one of the most important vehicles through which lower income people can supplement or increase their earnings, especially in today's tenuous economic climate.

As a result, the BSBDC was charged with the responsibility for the free market vendor sites initiative, launched in 2008 as a scheme that will promote entrepreneurship and micro-enterprise at the most fundamental levels and provide safe home bases for the roadside vendors. The first free market vendor site was established at the Rubber Tree [Market] in Warwick.

Since that time, partnerships and collaborations have been formed at the St. George's Old Town Market and the Hidden Treasures [Flea] Market in Somerset, as well as with other markets throughout the Island.

Mr. Speaker, the Government recognises that the BSBDC has made substantial strides in assisting Bermuda's small entrepreneurs, who needed that added impetus and support to transform their business ideas and existing businesses from concept to reality. However, there is also a need to ensure that larger emerging and existing medium-sized businesses can be provided with relevant and appropriate support when required. It was determined that, given its 30 years of experience, the BSBDC would have this responsibility.

To this end, in 2009, the BSBDC partnered with KPMB Financial Advisory Services, Ltd. to determine a profile of medium-sized businesses and to ascertain what support would be offered to this sector. After a series of focus group meetings held with stakeholders in the local medium-sized business sector, and surveying over 400 local businesses, a profile for medium-sized business was determined, which is included in the new BEDC Act.

Mr. Speaker, given the expanded areas of responsibility of the BSBDC, it is considered appropriate

to modernise the 1980 Act to reflect the growth of its remit. The expanded Bermuda Economic Development Corporation will not only have responsibility for the small business sector, the Island's economic empowerment zones, and market vendor sites; but now would also serve the local medium-sized business sector.

Additionally, it is also considered appropriate that the corporation evolve into a new entity focused on local economic activity and development called the Bermuda Economic Development Corporation.

Mr. Speaker, the BSBDC Act 1980 currently sets out a range of functions for the BSBDC, including granting loans or other forms of financial assistance, provision of technical advice, and assistance to persons in establishing, carrying on, or expanding small businesses and the maintenance of a register of small businesses. Powers include borrowing money, lending money or guaranteeing loans, acquisition holding, and disposal of personal and real property.

It is proposed that the BEDC Act retains these functions and powers, and in addition expands them to:

1. provide support and services to medium-sized businesses;
2. define what constitutes a "medium-sized business";
3. include specific powers to advance grants as a form of financial assistance to all entities served by its mandate;
4. include powers to manage and oversee development and implementation of economic empowerment zones;
5. include powers to operate and manage vendor markets;
6. include powers to maintain business registers for the expanded remit;
7. and include powers to acquire, hold, and manage land for any purpose deemed reasonable to meet its mandate as approved by the Minister.

BEDC's new organisational structure will reflect the three core markets that it will serve: small businesses, medium-sized businesses, and the economic empowerment zones. The general manager post will be renamed and become the executive director post, with management authority over the directors of the three agencies formed to oversee the three core areas of responsibility.

In closing, Mr. Speaker, our key national objective is empowerment and entrepreneurship and, as such, the Government of Bermuda intends, through the Amendment to the Bermuda Small Business Development Corporation Act 1980, to broaden its reach and expand its mandate to be the advisor on local economic development issues and to foster local economic development activity.

Without question, the Government is serious about encouraging a viable and reputable local business environment through the Bermuda Economic Development Corporation providing support, advice, and services to the small and medium-sized business sectors and the economic empowerment zones and vendor markets. To this end, the Ministry of Economy, Trade, and Industry will continue to make local economic development an imperative by putting businesses and entrepreneurs first and creating sound, progressive policy and support for their success.

Mr. Speaker, with these brief remarks, I now invite Honourable Members to participate. Thank you.

The Speaker: Thank you, Minister Weeks, the Honourable Member from Pembroke East Central.

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

Mr. Pettingill, you have the floor, sir.

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

I have to give it to the Honourable Minister and congratulate him on his new position. I think he was thrown in the deep end as coming into this House. He then got thrown into the deep end of being a Minister without Portfolio. And now he is thrown into the deep end again with regard to taking on this Ministry. And I give the Honourable Member one thing: As Shakespeare said, you know, in these situations you sink or swim; and he is swimming. So even when it appears that people might be standing on his head and trying to make him sink . . . I give him that; he gets thrown in the deep end.

Mr. Speaker, everyone in the legislature of this country and everyone in the community has to be about, and should be about, a concept of economic empowerment. I spoke in this House not so long ago when we were talking about the economic empowerment in St. George's, you will recall, Mr. Speaker. And I said that when you really want to impact on it, don't just draw a red line around that particular area, but give the appropriate casino licence, you have down there, and your hotel will get built, and you will suddenly have a hugely empowered St. George's. That would be my suggestion on how you bring real empowerment to an area and how you get people employed and working in a community. And that is just one idea.

So we have to be thinking constantly, Mr. Speaker, of ideas of economic empowerment. But at the same time, these things have to be about balance. And when I looked at this, Mr. Speaker, in reading the Explanatory Memorandum, as the Honourable Minister did, Members will note that it indicates the purpose of this Bill. It seeks to amend the Bermuda Small Business Development Companies Act, the principal Act, to rename it the Bermuda Small Business Development Corporation and Bermuda Economic Development Corporation, and to expand the functions of

the corporation to include medium-sized businesses and entities within the economic empowerment zones. And it sounds, candidly, very mundane, that, *Oh, you are changing the name. And you are expanding a certain area.*

But when one actually goes, Mr. Speaker, into the body of the Amendment Act itself, there are a couple of key things that glaringly jump out that are not so mundane. And I think that, as a matter of good practise and law, that explanatory memorandums, which are what legislators, lawyers, and everybody else who is dealing with the rules has to look at first, should set out what the real biggies are that are contained within the substance of your Act. And frankly, the biggies that are produced by this piece of legislation are not in that Explanatory Memorandum.

That causes me concern because it raises the question of, What are these biggies, that I am going to raise, about? And why have you not highlighted them in the place where they should be highlighted? That is, what this Act is doing is this: We are no longer lending money; we can give it away. And we are no longer just allowing you to get office space; you can go buy any land you want.

Now let me just highlight those two things so Members have a clear understanding of what their Act is doing, as I see it.

The original legislation, Mr. Speaker, allowed for, quite sensibly, the concept of providing loans to small businesses—a noble and sensible and empowering thing to do. Somebody needs to set up a small business. They come along, and they set out a business plan. And they say, *This is what we would like to do in this particular economic zone.* And they look at how they are going to make their arrangements to pay the loan back. And this is all reviewed. It is considered that this is a good risk, just like a bank does. It is just operating like a bank. And after doing the due diligence and looking at the applicant very carefully, looking at their business plan very carefully, they are in fact granted a loan to go ahead with the effort of their small business. And such loan may be requiring a guarantee and so-and-so, but as the way we know all loans work.

Mr. Speaker, I look around the Chamber today, and it is probably not an Honourable Member in this House that has not been involved in obtaining a business loan from the bank or from another business person. And they know what that involves and how it is set up, and the work that has to go into making the application to get the loan, and the promises that have to be made with regard to how you are going to ensure you make your loan payments, and what the interest is. And we all sit there, and all have sat there. I have just started a new business myself, Mr. Speaker, a new law firm. (That was not really a plug, but it was!)

[Laughter]

An Hon. Member: What is the name of it?

Mr. Mark Pettingill: It is called Charter Chambers, thank you. Some of you had asked me.

An Hon. Member: That is important.

[Laughter]

Mr. Mark Pettingill: I owe you. I owe the Honourable Member for that.

Mr. Speaker, the point is this that we all sweat these things. And what it does is breed a sensible position of responsibility and of balance and of the correct way of doing things.

So when I look at the Act and I see we have suddenly gone from now this Act granting loans or allowing for loans to be obtained, but also providing *grants*—no pun intended to the Honourable Member who sits on my left, because we are not talking about that Grant.

[Laughter]

Mr. Mark Pettingill: We are talking about grants as in giving away money!

Now I am all for grants in education because you are giving something to people to go off and get educated. In my view, they are giving something back to you. And you are rolling the dice on a young person who has got accepted to school. Listen to the process even here, Mr. Speaker. They are accepted into a university or school. They are setting out what their future is. And the powers that be say, *Work and support this young person to come back and contribute to our country. So we are going to give them the money.* That is education.

This is business. And candidly, I think the Act as it stands lacks balance when it comes to this new powerful jump-out word—not explained in the memorandum—the word “grant.” Because I certainly would love to be able to go along to a banking institution in relation to my new firm and say, *Mr. Banker, this is a wonderful idea. Please give me some money. And I can assure you that I am going to work very hard and make lots of money. And I am very happy that I do not have to give any of it back to you. But I am a really good guy, and I deserve a break, and I have worked hard. And so, give me some money, please.*

I am not, with respect, certain that that achieves the ends that we want to achieve in this House, of economic empowerment. I think that creates a potentially unattractive situation, a particularly dangerous situation, where people . . . if you can get a grant, why would you seek a loan? And if this person gets a loan for their business, or this person gets a grant for their business, why am I not getting a grant? I should not be offered a *loan*. I do not want a loan; I want a *grant*.

And how do you get the grant? Because the Act does not set out the criteria, Mr. Speaker, for the reasons that one is granted a grant. It just simply throws in the word, in my view, without the respect it deserves. It just throws it up into the Act—“loans”—and we are going to squeeze “grant” right in the middle of it.

It is a big deal. And it is not highlighted. It is a simple, simple five-letter word with a big implication. And I have not heard from the Honourable Minister the explanation or any comment with regard to what the grants are all about. It seems we are focused on the other issues with regard to the changing of some words and the moving about. Now we are not going to call it “business development,” we are going to call it “economic” and so on. And it all sounds very fluffy. But the real big word is missed by inserting before “loan” the word “grant.” We even put “grant” first in certain sections.

What does that mean? How does it work? What do you have to do to get a grant? How much do you have to pay for the grant? Do you have to pay anything for the grant? What do you have to establish in order to have the grant? What do you have to do in the process of your business to satisfy the powers that be that you have used your grant well? Are there specific purposes for a grant? Are these things contained in the Schedule like they are in relation to the granting of a loan?

And it is different. There are criteria set out, Mr. Speaker, with regard to the Economic Development Corporation, the Small Business Corporation granting of loans. That involves a certain process. What is the process for a grant, Mr. Speaker? Who qualifies for a grant? Who says that you can have a grant, and on what basis?

All of these are sensible questions that people will likely have. They are sensible questions that should be answered. And they are sensible questions that should be embodied within the legislature that creates them, or the legislation that creates them. And on the face of it, they are not.

Let me move on to the next biggie that is not contained as a highlight in the Explanatory Memorandum. Let me look, Mr. Speaker, at clause 12 of the Amendment Act. Clause 12 amends section 17 of the principal Act to empower the Corporation, with the approval of the Minister, to acquire or hold land. It sounds like such a simple little thing, that now we are going to have a clause 12 . . . We look at clause 12 amending section 17(3) of the principal Act by deleting “under a lease or tenancy as office accommodation, but shall not have power to acquire or hold land for any other purpose” and substituting the words “, subject to approval of the Minister, any land in Bermuda that the Board considers necessary.”

Well, on the face of it, that does not look like much, until, for those listening in the public, we see what it does. You are going from the ability to have an

office, to grant an office. And when you read section 17(3), what it in fact does is, the Corporation now has the power to acquire, hold, and manage land, subject to the approval of the Minister, any land in Bermuda that the Board considers necessary—not even in the empowerment zone!

And this is not a significant amendment? I have not heard anything about it. What does that mean? What is that section doing, because it is not office accommodation anymore. And the previous section specifically said that it shall not have the power to grant land, Mr. Speaker. And now it comes along, and not only have we moved away from office space, and we moved outside of the economic empowerment zone, and now with the approval of the Minister the Board can purchase any land in Bermuda that it considers necessary. For what?

I am trying to figure out, without looking at it as anything potentially nefarious, what is the purpose of that section? And why has it changed so dramatically? Why has it changed from the original Act, Mr. Speaker? [Originally,] it specified that the Board could not do something, specified that it shall not have the power to acquire or hold land for any other purpose than office accommodation. So the only reason it could do it before was for office accommodation. That is wiped out with the stroke of a pen, glossed over by the amendment, not highlighted as a key aim of the Amendment Act that we are bringing here today, not set out as this Bill seeks to amend and what it does. It does not even mention it there.

And through, candidly, some colourful language, does a hugely significant amendment and imports a hugely powerful power.

It is quiet. Members are reading through it, like, *What does this mean?*

Well, I don't know!

The Speaker: Well, I am sure the Minister is going to tell us when we get into Committee.

Mr. Mark Pettingill: Well, I am sure he is. I am sure he is. But I would have thought that it was so significant that (a) it would have been contained in the body of the explanatory note, and (b) that the Minister would have been advised, sink or swim—somebody stand on his head to tell him . . . swimming, I am sure . . . It is difficult to swim, though, if somebody is standing on your back. Right?

The Speaker: You are giving him ample notice, and I am sure you will get the answer.

Mr. Mark Pettingill: I hope so.

And I hope he is going to swim over and understand and explain to the listening public and to us on this side exactly why that very, very significant change has been incorporated into this Act without giving the heads-up that it is going on. And why an Act

that is dealing with an economic empowerment zone is giving a power that extends to anywhere.

It is an economic empowerment zone Act, with a specific line drawn around a specific area, but this section amends that, subject to the approval of the Minister, any land in Bermuda that the Board considers necessary. Why? Why?

Why are we stepping outside of a zone that we are saying we created specifically for the purposes of this Act? This warrants some serious explanation. I do not know if it is a mistake. I do not know if it is an intentional mistake. I do not know if it has been missed. But it warrants explanation, and we need to have one. Because this is something that cannot simply be glossed over with the stroke of a pen, an amendment that is that fundamental.

So I do look forward to hearing from the swimming Minister with regard to his explanation as to exactly what those two highlighted matters that I have raised and how they are going to be dealt with, with regard to grant, and now the acquiring of land anywhere in Bermuda.

Thank you, Mr. Speaker.

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

I am going to take the Honourable Member, Mr. H. Swan, from St. George's West. Mr. Swan has the floor.

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

Mr. Speaker, I am obliged for the Member representing the Opposition that spoke on this matter for raising the points which relate specifically to the inclusion of grants in this legislation. I think it is a very valid point that the Honourable and Learned Member makes. And as it relates to the absence of a definition, I would respectfully recommend to the Minister that that might be a need, to maybe have a look at this legislation and take onboard that point and maybe other points that may come in the course of this debate. We will be here next week, and it is important to get it right.

The Speaker: But you are anticipating the Minister. The Minister may very well have the answer when he gets into Committee.

[Laughter]

Hon. Hubert (Kim) E. Swan: That is correct. That is correct, Mr. Speaker.

But as an observation (and I was going to get to my next point), as one who has a great deal of respect and appreciation for this Bermuda Small Business Development Corporation as it was constituted in 1981 . . . Mr. Speaker, as you would know, the formation of the Bermuda Small Business Development

Corporation came as the result of a report that was done by Mr. Kenneth Clark on some very disproportionate circumstances that existed in this country at the time. And as a consequence, the Government of the day, whose name was the United Bermuda Party, felt it necessary to bring about some measures to counter the imbalances that existed in this country, Mr. Speaker.

Some would think . . . and it related to race. And I am proud to say that these were one of the measures that this Government has looked to improve upon. Indeed, with the current economic downturn, Mr. Speaker, it makes sense to embrace the needs of medium-sized businesses and properly characterise and outline, as we have done in this amendment, what is in fact a medium-sized business.

And as the Honourable and Learned Member, Mr. Pettingill, went at great lengths to point out, the same needs to be done in the Act. We cannot leave it for chance to know what “grant” stands for in this regard. One of the questions that I had (that he dealt with as well), that I felt it necessary as it relates to the lending of money, as it relates to how monies are disbursed . . . it is important that this Act include a definition.

Now, as it relates to the section, Mr. Speaker, that changes the holding of property, I am sure, particularly under difficult economic circumstances that indeed the entire country faced at this particular time, that in order for the Bermuda Small Business Development Corporation or the Bermuda Economic Development Corporation to meet its mandate, I am sure it had a quango. They are probably looking at ways in which they can have greater capitalisation. If that is the case, the Minister needs to certainly expound upon that and lay it out.

I recall, Mr. Speaker, when the Bermuda Small Business Development Corporation first came to this House, and during the time we had former Finance Ministers here, it is my understanding (and I stand to be corrected) that the Bermuda Small Business Development Corporation came under Finance. And whilst in the principal Act the Financial Secretary is ex-officio, with the changing of the Bermuda Small Business Development Corporation being embodied in a Ministry, with the consideration that is going to allow the Bermuda Small Business Development Corporation to take on greater powers of having properties, and if the purpose is to have capitalisation so that it can meet greater loans that it intends to give out, or aid, whatever “grants” means in this regard, these things need to be spelled out and not taken for granted, Mr. Speaker. (No pun intended, thank you. It was no pun intended, actually, but it worked out that way.)

But, Mr. Speaker, those are my comments. I want to say that this organisation has done good work in this community. As a budding entrepreneur, maybe some 20 years ago, I had the opportunity of taking

advantage of the services provided by good persons in that office. And I know many a small business person has benefited from the offices of the Bermuda Small Business Development Corporation. I have seen of late how their mandate had expanded to the economic empowerment zones, how they have taken on seminars, how they have done outreach and the like.

And I would not want anyone to leave here today thinking anything less than the work that they do is necessary in this country, because if this country really is going to turn around and be a level country, equal for all, we need to get more young-up people involved in business. And let’s face it; there are a lot of young black young people that need to be encouraged to become entrepreneurs. They need to be taught at a young age how to be entrepreneurs. It is a culture of being a good entrepreneur. Some people come by it by virtue of sitting around the dinner table and their families talking about how to be in business for themselves. So it becomes very natural. Some people have friends who are business people, and it rubs off.

So, as a consequence, the opportunity for this country to truly embrace the spirit of this 1980 principal Act that we are talking about, you know, Mr. Speaker, I think there is great opportunity. And for the sake of making a mistake, we do not have to be in such a hurry if the opportunity presents itself to go back and maybe tidy up the legislation, Mr. Speaker, to be far more, let us say, clear, in what its intentions are.

But I certainly appreciate that if the Bermuda Small Business Development Corporation is going to reach out to medium-sized businesses whose mandate is between \$1 million up to \$2.5 million, it is going to need far more resources, and it needs to know that it has those resources before someone comes knocking on its door. So maybe there is some reasonable explanation behind what is intended.

But we cannot leave that to chance. So in the spirit of that, I would hope that the Minister and the Government would take on board some of the comments made by the Honourable and Learned Member, Mr. Pettingill, and some of the ones that I have made, and know that I certainly respect, Mr. Speaker (in closing), the work that has been done—over many years, I might say—by the Bermuda Small Business Development Corporation, soon to be referred to as the Economic Development Corporation.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Swan, the Honourable Member from St. George’s West.

Any further speakers?

I now recognise the Honourable Member, Mr. W. Furbert, from Hamilton West.

Mr. Furbert, you have the floor, sir.

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

Mr. Speaker, I believe that the Bermuda Small Business Development Corporation is starting to grow up even more than when it first started in 1980. It has had a history. It has had a record now of looking at the demand out there for small businesses and also medium-sized businesses. And I believe that what comes here today is something that is very important for this country.

I hear the question being put forward by the OBA [One Bermuda Alliance] and the United Bermuda Party. And I will say that I am not sure exactly if they have read . . . Well, they have read the legislation. But I will explain to them some parts in the current legislation that I think will help them out.

Mr. Speaker, the Bermuda Small Business Development Corporation, as we all know, came in for a purpose, to help out small businesses to help out with start-up, to help out with capital. It was a joint venture between the Government and banks. The Government put in some funds, banks put in some funds. At that time—well, I believe still now you can borrow up to 50 per cent—the Corporation would guarantee up to 50 per cent of the, I think, it was a formula based on the capital.

[Inaudible interjection and laughter]

Hon. Wayne L. Furbert: Mr. Speaker, I am not going to stoop to the Honourable Member there. But let me just say to you that I have read the Act, the Honourable Member, Mr. Grant Gibbons.

But I was a Minister of the Bermuda Small Business Development Corporation, so I definitely read the Act. But it was during my time that we raised, put more capital—

The Speaker: And you have been here long enough to know.

Hon. Wayne L. Furbert: That is right. We put more capital into the Bermuda Small Business Development Corporation when I was the Minister, so that small business can borrow more to get things done.

As we all know, it is very difficult here, particularly when a small business, a young person coming out there, an entrepreneur who wants to do something, let us say, in computers. They have no assets. They have no cash and no collateral. And who can they rely on? They go to the bank. The bank says no. They are not going to lend them any money because they have no capital or collateral.

So they turn to the Bermuda Small Business Development Corporation with an idea, and the Bermuda Small Business Development Corporation looks at the plan and sees whether it is viable. And some get through, some do not. I am hoping that in the future the Bermuda Small Business Development Corporation gets into the concept of joint ventures with

small business so that they can help out even more and be part of the shareholders going into the company and get them really going.

It can be very discouraging for an entrepreneur who is trying to start out, and they are being turned down by the banks because they do not come from any type of wealth or are not named certain names. Then they are denied. Even with a good idea, sometimes people are turned down. I am aware of friends of mine who have been turned down by basically both organisations, and they are left to wonder which direction they should head.

But entrepreneurship is one of the things that we should be really pushing out there in Bermuda, talking about how we can encourage more entrepreneurs, not encouraging about how I can go work for a certain entity or whatever it is. If you have got certain skills, then maybe it is time for us to . . . First of all, you are creating more small businesses, and you are creating pride and joy for individuals who can say, *Well, I can make it*. And, yes, sometimes you fail. That is just part of the whole thing about entrepreneurship. But at least that person takes an effort and tries to make it happen.

So, like I said, this is a further growing-up exercise for the Bermuda Small Business Development Corporation.

The Honourable Members from both sides have talked about grants. Well, Mr. Speaker, we have grants for people for education. You know, we give people grants out there for education. It helps them to jump-start their education. Well, I do not see any real big reason why we cannot help an individual—

An Hon. Member: We have grants in the arts.

Hon. Wayne L. Furbert: Grants in the arts.

I do not see any reason why we cannot give grants to help people jump-start their businesses, for marketing or for whatever it is.

But if you look under the current Act [the Bermuda Small Business Development Corporation Act 1980], Mr. Speaker, the current Act says, section 4(1)—

[Inaudible interjection]

Hon. Wayne L. Furbert: Under current . . . If you do not mind my reading, Mr. Speaker, it says, “The functions of the Corporation”—

An Hon. Member: Where are you reading from, Honourable Member?

An Hon. Member: From the principal Act.

An Hon. Member: Yes, where? Where in the principal Act?

Hon. Wayne L. Furbert: Section 4(1). It says, “The functions of the Corporation are, subject to subsections (2) and (3) . . . the granting of loans or other forms of financial assistance . . .”

Well, I would have thought “financial assistance” could be terminology as also grants. In other words, maybe the Bermuda Small Business Development Corporation is clarifying to us exactly what they want, because in the principal Act it does not say what “financial assistance” may be, you know. And this was written by the United Bermuda Party, if they want to put too much pride in that type of thing.

[Inaudible interjection]

Hon. Wayne L. Furbert: Well, I know that. But my point is they are clarifying, saying it is possible that financial assistance could be meaning grants. I do not see any problem because it was in the Act; financial assistance could be anything. I am just assisting the Bermuda Small Business Development Corporation to put their business in place.

[It goes on to say,] “to assist persons in establishing, carrying on or expanding small businesses.” That is what the principal Act currently says, the forms of financial assistance. As I said, it is not defined in here, but yet it could be interpreted as a grant. The Board could have just said, *Well, okay, if that meets that qualification as far as financial assistance.* But they are coming here today and saying, *Well, we are going to include in there financial assistance as being a grant.*

So I do not think that is an impediment as far as going away and cleaning up anything. It is clear what the Corporation is trying to do, particularly in helping out the small business and medium-sized business, as they have now defined exactly what medium-sized businesses are. I am assuming that all the numbers under that could mean small businesses. Anything over that could be larger. So you can be earning . . . I am not referring to any clauses. But your revenue could be \$1 million, or \$999,999, and be a small business. But when you reach that certain level, then you switch into a medium sized.

So the Corporation is saying, *Listen. We are not going to leave you out there. We are going to still assist you to hope to take you to another level.* I think that what they are doing is right. It is important. And I am hoping that the OBA and the United Bermuda Party can see that.

As far as holding land or whatever it is, corporations do hold land. It has to go back towards the board, and it has to go to the Minister for approval by whatever means that may be. There is a possibility that . . . at least it is there for them to use that wisely. They are not going to buy land for (I do not know) just to have it sitting there. It is going to be a purpose. There is a purpose for getting into that type of activity. You know, it just does not make sense.

So I have confidence in the officers there and the Minister and the Cabinet, of course, to be wise on why they are going to execute such an idea or a plan going forward.

So, Mr. Speaker, in those few words, I think I have explained to them as far as what I see, as far as the financial assistance. And it is clear to me that it can be interpreted in many forms going forward. But the Bermuda Small Business Development Corporation has a role, and, as I said, I think they can probably expand their role even more to help out small businesses or to help out individuals to become entrepreneurs. And, like I said, we should encourage it from this House, and I am sure that the future will be brighter as we go forward.

Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Furbert, the Honourable Member from Hamilton West.

Any further speakers?

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

Mr. Richards, you have the floor, sir.

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

Mr. Speaker, I am an entrepreneur. I started a small business in 1987, which in some way still exists today. It is now smaller than it was when I started. But anyway—

An Hon. Member: Do you need a grant?

Mr. Everard T. (Bob) Richards: Yes, I need a grant.

[Laughter]

Mr. Everard T. (Bob) Richards: Not that kind of grant.

[Laughter]

Mr. Everard T. (Bob) Richards: So, I am fully aware of all of the benefits, not only to the entrepreneur of the whole enterprise idea, but to the society as a whole. It is a very good and laudable thing to promote the entrepreneurial spirits of your people. There is no question that the spirit of enterprise runs deep in Bermudians. It runs very deep. People like to have their own small business, their own businesses, in Bermuda. It is part of our culture.

I have always been a supporter of the Bermuda Small Business Development Corporation. Quite frankly, I think that it has done a very good job in recent years under the current Government administration. They have done a good job. I have no criticism. So I want to say that before I say anything else so that people do not get the wrong impression. I sup-

port this institution. I supported it when it was started back in, I guess, the 1980s, and I support it now with the addition of the economic development zones.

What we have before us today does contain some troubling anomalies. I give the Minister perhaps an escape hatch because he is new, but I do not know who prepared your brief, Honourable Minister. But let me say it was very incomplete. Very.

Now, let us look at a few things. There is a provision to expand the activities to larger companies. Well, if you are going to expand the activities to larger companies, you need more capital because larger companies are going to be borrowing larger amounts of money. They are going to require larger amounts of money. You need more capital. One of the previous speakers has already stated that there is a formula for how much the Bermuda Small Business Development Corporation can either lend or guarantee. And that formula is based on how much capital is in the Corporation.

So if it going to be lending more money, where is the capital? There has been no mention of the capital. Capital has got to come from either the Government or from the banks, or both. There has been no mention of that anywhere. So that is a big hole. I am not against increasing its mandate to larger businesses. But when you come to this House, you have got to come prepared. You have got to come with the story complete—and it is not. Somebody over here was bound to ask that question: Where is the capital? Well, you know, somebody needs to be thinking about this sort of stuff.

So, we do not object to the idea. But the story is incomplete. And if the capital is coming, some of it, from the Government, then, you know, where is it in the budget? If it is being taken from some other budget, well, you know, what happens there? So the question of where the capital is coming from leads to other questions. But, you know, we have to know where the capital is coming from. Have the banks already decided and agreed to pony up for more capital for the Bermuda Small Business Development Corporation, or the Economic Development Corporation, as it is now going to be called? If so, we should have been informed up front. And if that is not the case, then it sounds strangely like this thing has not been thought through, which is even worse, of course.

So that is the first point, the capital. Nobody knows where it is coming from.

The second point is the issue of the word “grant.” Now, to me, a grant is a gift. There is no magic about that. A grant is a gift. The Honourable Member, Mr. Furbert, referred to the fact that Government gives grants. That is true. But, Mr. Speaker, you will recall that every year in this House there is an accounting for the grants that Government gives to charities. It is in the back of the Budget Book every year. It shows who got what, who got what last year, and proposes to say who is going to get what this

year. And we all know people who are in the charities business, and they are all moaning and groaning because whatever they got last year, they are getting sort of half of it this year, or maybe even less than half of it this year.

So there is an accounting. There is a report to the people of this country, as represented by Members here, as to where the grants have gone. Okay?

Now, the difference here is that . . . I heard some murmuring about education. But it falls into my same point; it played into my point. The difference here is that charities or education are all non-profit organisations!

An Hon. Member: Absolutely!

Mr. Everard T. (Bob) Richards: What we have here is assistance to for-profit organisations. You know, this is assistance to private sector companies, businesses for profit.

Now, the Americans have this lovely phrase that they use for things like this. And the phrase is “a moral hazard.” Giving grants to for-profit businesses is a moral hazard because who decides which businesses get which grants and which businesses do not get grants? It is a big difference. You lend somebody money or you guarantee a loan to somebody to give them a hand-up, than giving somebody money saying, *Here, take it, Jack. You don't ever have to pay it back.*

An Hon. Member: Get money for free.

Mr. Everard T. (Bob) Richards: Yes. And then you say, well, you know, who is going to get that kind of deal? My ace boys?

No, no, no. This is a huge moral hazard, Mr. Speaker, the kind of moral hazard that we should not be going down, a road we should not be going down at all. No. There is a very strict line between loans, guaranteed . . . I mean, the other financial assistance in the Act clearly referred to guarantees, right, clearly. It certainly did not refer to gifts.

Then you have the nonsense later on the Act about, you know, inserting the word “grant” as it relates to interest and fees. So what are you going to do? Give somebody money and then charge them interest for it? It is lunacy! This has not been thought through, Mr. Speaker. It has not been thought through. This word “grant” has no business being in this Act—no business.

It is easy to make the argument that you are not assisting a small business by just giving him a gift. That is no assistance, because that is a false premise altogether. That is a false premise. It is one thing if the Economic Development Corporation says, *Well, I can't lend you the money for some reason. I can't guarantee you the money for some reason. But I will invest in your business.* I heard the Honourable Member, Mr. Furbert, talk about “angel investors.” You

know, *I will invest in your business. I will either take equity or preferred shares or something like that, just to give you some capital to work with.*

I understand that. And that could also be “other financial assistance,” if the Corporation decided to actually be in some sort of partnership with a firm, under very strict guidelines, of course. And they do that in the United States and Canada. I know that for a fact. They do that.

But that is not what we are talking about here with grants. A grant is a gift. It has no business being in this context—no business whatsoever.

I believe somebody has kind of made a mistake here. And it needs to be corrected, because we all want to support this. We all want to support this! Make no mistake about it. We want to. But the inclusion of grants makes it unacceptable. It is a huge moral hazard. And it goes into an area that you just do not want to go there, Mr. Speaker. You do not want to go there at all.

There is also some controversy about the ownership of land, as my colleague the Honourable, Mr. Pettingill, talked about it. It occurred to me—and I had not thought about it before—that the acquisition of land, the power to hold it, by the Economic Development Corporation could be a result, say . . . Let me just sort of give you this scenario. They lend Joe Blow some money, and they take land as security for the loan. And the guy defaults on the loan. So the Economic Business Development Corporation will have to take possession of the collateral, which is the property. So they own the property, become owners of the property in that scenario. I can understand that.

But again, if that was the only reason, the only scenario in which it should be justified, it should have either said so in the Act or said so in the Minister’s brief. I did not see either of those things. Just lead us to imagine all kinds of things, which, you know, is unfortunate.

So those are the three points. You have to have capital. It is like insurance companies. The Ministry of Finance and Monetary Authority oversees insurance companies in Bermuda. And most of that supervision has to do with the ratio of capital to the amount insured. Well, this is the same thing. When you are guaranteeing loans to business, it is the same thing as insurance. You have to have a ratio of capital to guarantee. You increase the amount of business; you have got to increase the capital. So that is pretty clear.

The whole idea of grants, to me, is unacceptable. It needs to be removed. Also, we could have some explanation about acquisition of land. I could see it in the one scenario I just gave you, but if there is some other scenario that I have not thought about in my imagining things, well, I would like to hear it.

But in closing, let me say that we would like to support this. We would like to support the thing. I do not know any Member in this House who does not

support this Government-owned Corporation. They have done a good job. But we want to support it on reasonable grounds. But some of the things that are in here appear to indicate incomplete thought, and we would like the Government to explain themselves on that.

The Speaker: Thank you, Mr. E. Richards, the Honourable Member from Devonshire East, Shadow Minister of Finance.

Any further speakers?

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

Mr. Swan, you have the floor.

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

I just wanted to add a few thoughts to this whole bit of legislation that we are debating here this afternoon. I have to admit, the Honourable Member who just sat down touched on much of what I wanted to say. I really wanted to sort of go back, I think, to the original intention of the Bermuda Small Business Development Corporation. And that was to, in a sense, enhance and enable small businesses to germinate, develop with some assistance from the Government. Obviously, they had to partner with banks and what have you with loans and that type of thing. And the Bermuda Small Business Development Corporation would guarantee these things.

Now, what I am seeing here today, Mr. Speaker, seems to me to sort of fundamentally alter the purposes of the Bermuda Small Business Development Corporation. For my edification, I would like to know what the purposes are now as opposed to what they were before.

And I am speaking, I believe, for taxpayers, Mr. Speaker. You know, the people of this country, the businesses of this country, we get taxed in various ways, and it comes all into the Government pot. People who run businesses . . . it is a risky proposition going into business, Mr. Speaker. Those businesses, obviously, are in a profit-generating mode. They do not go into business unless there is a reasonable expectation that they are going to be able to make it a going concern. You do not even go into it without a proper plan or, you know, these types of things.

So, I find it a little sort of odd and strange that a body that was formed to assist businesses is now going to give money away. For what? I do not know. And this, that part of it, goes back to, What are the policies and what is the intent of the Bermuda Small Business Development Corporation now? And this is a fundamental alteration, I believe, in its intent or purposes or policies.

The other aspect of it is the power to own land. This, to me, is a fundamental difference from what the Bermuda Small Business Development Corporation was intended to do. I need that explained to me. You know, as a taxpayer and a business owner,

Mr. Speaker, I made a commitment, or my forebears made a commitment of their own assets when they were taking a risk. Now, I am not sure that I can agree to having my tax dollars given to something for which . . . well, it is, whatever, given away. I am not sure I can agree with that, and I am not sure many other individuals or businesses can agree with that, Mr. Speaker.

The last thing I wanted to mention . . . And I know the Corporation works through the banks and has a Board and what have you, and I am sure there has been a lot of consultation with this Board. The Minister in charge, I assume, has had consultations with all of the bodies involved. I am not sure how much outside bodies, like the banks—some of the ones that are listed in the original legislation do not even exist anymore. But it is entirely Government funded now.

And I wanted to pose those questions, and I believe they deserve some consideration and some answers. Thank you, Mr. Speaker.

The Speaker: Thank you, Mr. Swan, the Honourable Member from Southampton West Central.

Any further speakers?

I now recognise the Honourable and Learned Member, Minister M. Scott, from Sandys North, the Attorney General.

The Honourable Member, Minister Scott has the floor.

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

As we examine this Bill, the Small Business Development Corporation Amendment Act 2011, which amendments do set out, Mr. Speaker, as we examine this in the context of legislation being amended through our legislative committee, but as we examined it as a matter of policy, it simply and most emphatically sets out to expand the brief and powers of a corporation that has been around in our country for some time and is being now more responsive to modern conditions in our country. So we are expanding the powers.

Whether they are the powers to own property beyond business premises, of course it makes sense. For God's sake, where are we living in this country that we would seek to hamstring or tie down a driving of entrepreneurship amongst our people by not expanding and giving the most, broadest sanction to operate and to engage in entrepreneurship?

Mr. Speaker, as for grants, the Honourable and Learned Member, Mr. Pettingill, was looking for definitions of the word. In the law, we say that if it is not defined in the Act, then it acquires its ordinary meaning. It does not need any further explanation than that. And now that the debate has commenced, we have heard very sensible explanations as to what "grants" means. I mean, it strikes all of our imaginations and minds. It is money, and it is a grant. Grants

are often given by Government departments to support and stimulate activity and business activity.

Mr. Speaker, we all know that these amendments come in the backdrop of the economic downturn across the global community, across the global community when governments across the world have also considered stimulus packages. So it might be regarded as not unusual to find in this Government a movement, in terms of policy, of stimulus grants and stimulus funding. You know that it obviously has not been provided for in the budget, and you did not see it in the budget. So the Government has not set out to provide the capital, as the Honourable Member, Mr. Richards, was speaking to when he talked about capitalisation.

So, Mr. Speaker, the obvious alternatives are the banks and the banking institutions. Enterprises in this country need seed capital. They need seed funding. That is a given. This Government, the PLP, in all of its manifestations of the social programmes and agendas that we have been pursuing have recognised and have had our people, our supporters, and people generally in the country who present to Governments, whether they are PLP supporters or UBP supporters. They come with propositions. They come with their cases to be made for creating better competition. And to hear the Honourable Member, Mr. Swan—who says that he objects, and has an established plumbing business in this country which was begun by his father—says is going to object to have his taxpayer dollars stimulate business in this country is unacceptable.

It is clear that you on the other side who have so far spoken have not changed your approach at all. You are the OBA, or the UBP, and the UBP Member, Mr. Swan, stood up and made the same—links himself and weds himself to these same ridiculous arguments.

We are seeking to stimulate enterprise in the country. And it has to be done. And a grant is being gainsaid on the other side of the House. To hear the Honourable Member, Mr. Richards, say . . . I mean, the words were extraordinary. *It has no place in the legislation?* What on earth are you talking about? How can you stand on your feet and say that it has no place in this country that we provide stimulus? Where are you thinking?

[Inaudible interjections]

Mr. Everard T. (Bob) Richards: Point of order, Mr. Speaker.

Hon. Michael J. Scott: It is disgraceful.

The Speaker: There is a point of order.
Minister, will you take your seat?

Mr. Everard T. (Bob) Richards: Point of order, Mr. Speaker.

Hon. Michael J. Scott: I will quote you in a moment.

The Speaker: Take your seat, Minister.

[Gavel]

The Speaker: There is a point of order. The Honourable Member, Mr. E. Richards, has a point of order.

What is your point of order, sir?

POINT OF ORDER

[Misleading]

Mr. Everard T. (Bob) Richards: The Honourable Member is misleading the House.

Mr. Speaker, I do not mind being flogged for my sins. But I do mind being flogged for sins that I did not commit.

I did not say that it did not have a place in stimulus. The whole word “stimulus,” we can talk about that forever. All right? What I said does not have a place in the affairs of this Corporation, using Government money to give to for-profit organisations. That is what I said. And that is what I meant.

The Speaker: Thank you.

Carry on, Minister Scott.

Hon. Michael J. Scott: That makes no difference. It makes no difference. First of all, all of us can read the Act, and if we were going to be granting money out of the budget, it would be clear.

May I read . . . all of us have passed the legislation under the Bermuda Housing Act 1980. We are all aware that under the Bermuda Housing Corporation, it has certain powers. Are we not? It has certain powers to go off to the bank, with the permission of the Minister of Finance, raise capital, and deploy it so that in this country we stimulate entrepreneurship and stimulate housing.

These amendments piggyback upon this kind of policy thinking, except that we are applying it to entrepreneurship. And this is what we are seeking to do. It is a grander scheme. It is a thoughtful scheme. It is a well-thought-through policy. And it is seeking to drive entrepreneurship, and to do it in 2011 when we very much need to be doing so, and turning the economy around.

But to hear the Honourable Member, Mr. Richards, say whatever he said, he found that it had no place in this Bill, and it was tantamount to saying, *We cannot have this kind of grant—*

An Hon. Member: Watch what you are saying.

Hon. Michael J. Scott: I will not be watching anything. I heard you, and you said, *It has no place in it.*

It is old thinking. We have people going down to our banks all the time with wonderful programmes and business plans. And they often get nowhere, for all sorts of reasons. And therefore, the Government comes with this . . . and I heard Mr. Richards say that it requires business plans and capital—

[Inaudible interjections]

Hon. Michael J. Scott: Your thinking has not changed. You may have changed your name. But to have . . . You want the people and the taxpayer to be hearing you? I hope they are hearing you say that you are crushing this kind of initiative.

[Inaudible interjections]

Hon. Michael J. Scott: And so, Mr. Speaker, the expansion of the powers of the Corporation, and now the Economic Development Corporation, are both necessary and they are wisely thought through. And to hear the assault on these amendments by an examination of the concept of grants and the concept of the expansion of power of the Corporation to manipulate, manage, and deploy property ownership rights so that it drives its business forward is proper. It is apple pie.

And to hear the Honourable Members across the way sing a very tired old song demonstrates that you have not changed and that you are not interested, and demonstrates you are not interested in the social welfare of the people that you hope to go back to the polls to when we go back there.

[Inaudible interjections and general uproar]

Hon. Michael J. Scott: All legislation . . .

[Inaudible interjections and general uproar]

Hon. Michael J. Scott: I do not mind if it is an election piece of legislation.

Some Hon. Members: Ah! Ah!

Hon. Michael J. Scott: I do not mind if it is an election piece of legislation. It is consistent with the Progressive Labour Party's social agenda.

[Inaudible interjections]

Hon. Michael J. Scott: Yes, well, I do not mind if you take that point. There will be all sorts of perfunctory legislation in this House, and it will be characterised by legislation that you can characterise as pre-election legislation or ordinary amendments, or necessary financial legislation or justice legislation. We will have an entire gamut in here. Do not seek to assail me for having an election legislation; this is what we do.

So, Mr. Speaker, I was amazed and appalled by the two speeches of the Honourable Member, Mr. Richards, and followed by the Honourable Member, Mr. Swan, and then the other Honourable Member, Mr. Swan, taking on . . . It is clear that you have locked yourself into some concept that this is . . .

[Inaudible interjections]

The Speaker: Carry on, Minister. I am listening.

[Gavel]

Hon. Michael J. Scott: That this is a fundamental altering of the mandate of the Bermuda Small Business Development Corporation's powers. It was said two minutes ago, I heard it; Mr. Swan said it—fundamental change of its mandate—simply because it sets out to make grants available through diverse and clever ways, and clever ways.

Mr. Mark Pettingill: It does not say that.

Point of order, Mr. Speaker. That is the point. That is the whole point.

The Speaker: There is a point of order, Minister. What is your point of order?

POINT OF ORDER

[Misleading]

Mr. Mark Pettingill: The Honourable and Learned Member is misleading the House and the country because the explanation he is giving may well be a good one, but that is not what the legislation says. I rose to address the issues of the legislation. That is not what it says.

The Speaker: Yes. I uphold your point. Yes, yes. Carry on, Minister Scott.

Hon. Michael J. Scott: And I am saying, Mr. Speaker, that the policy of the legislation, as I have particularly examined it in the legislative committee, is to expand the powers of this Corporation, not dissimilar to the powers under the Bermuda Housing Corporation.

You may take it from me that this kind of thinking makes sense, particularly if we are seeking to expand the powers and to give people an opportunity in this country where the creative powers for entrepreneurship are both prevalent, they are incredibly deep in their creative juices, they are incredibly creative in their way of starting businesses, and we need to be supporting it. And that is what Governments do; we facilitate.

But we have heard the Opposition, all of the Oppositions across the other side, make this spurious attack on these amendments on the basis that they have heard the word “grant” and they have heard the

words “the expansion of property ownership rights,” and they find it all too indigestible. We will seek to explain the policy, and the underlying policy here is an expansion of powers in 2011—the twenty-first century—and demonstrate that the singular drive of the amendments is to increase the powers of the Economic Development Corporation, so that it increases the power of entrepreneurship by people who have not had the opportunity heretofore to prevail and to progress and to profit in this country, as they should be, as they should be.

Mr. Speaker, the Bill is one where we decided to maintain the entity in its original form and introduce and underpin it with amendments, so it is a Corporation that continues in being, with all of its brilliant history and wonderful history thus far. But I have watched the Corporation over the years. I have spoken with applicants who have gone to the Corporation over the years. And they have all had wonderful stories and had great compliments of the Corporation. But you continue to up the game. You continue to up the game.

And it is selfish. There is no place for selfishness. There is no place for companies, owners, whether within the ranks of the Members of this House or on behalf of persons—Members standing and stating that they speak on behalf of the existing corporations in the country or businesses in the country to say that the playing field is being shifted. We are seeking to even the playing field. Competition is important. Competition is good. You are not going to be undermined in your businesses by the insertion of these words “grant” or “the provision of grants” or “the provision of property ownership benefits” under this Act. You will probably have your businesses and those whom you represent have their businesses improved. Competition is good.

The release of greater competitive creativity by other young, black and white, entrepreneurs in this country will be good for all businesses. Business models change. You need new blood. You need new creative spirits and creative ideas out there. That is exactly what this is meant to be assisting. And I cannot conceive of the Honourable Member, Mr. Richards, as the Finance spokesman on the other side, taking this on in the way that he has. It is quite remarkable! It is quite remarkable! It is quite remarkable!

[Inaudible interjection]

Hon. Michael J. Scott: I find it remarkable, and now he assails me and says I do not understand business.

I am not talking about misunderstanding business; I am talking about stimulating business and creating the opportunities for business. That is the very kind of pabulum that too many people get when they get to our banking institutions, and they get their business plans completely thrown under the bus. You have not changed over there. And you are merely re-

peating the kind of depressing discouragements that too many of our people encounter. This is where we need the Government to facilitate.

So I make my case, and I rest it there. The Bill and the amendments are there for expansion of the powers of an entity from small to individual entities, expanding these powers so that there is deeper, broader entrepreneurship in the country. Nobody can say that the Progressive Labour Party has not been beating this particular path to the door of our people, to the door of expectant and willing entrepreneurs in the country for a long time. And so we take another courageous step—it is not even a courageous step—we take another prudent and strategic step in fulfilling that policy.

The Speaker: Thank you, Minister Scott, the Honourable and Learned Member from Sandys North.

Any further speakers?

I recognise the Honourable Member, Dr. Gibbons, from Paget East.

Dr. Gibbons, you have the floor.

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

Mr. Speaker, I believe that, unfortunately, the Honourable Member who just took his seat has gone way off course here. What I have found, actually, is sort of a pattern that you see over and over again up here. When the Government starts to get difficult questions about a piece of legislation or a scheme or whatever they are proposing, what they then tend to do is set up a straw man and make accusations about what the other side has said, which are way over the top, and are essentially inaccurate in terms of what the other side was really saying.

I think it does not help here because, I think as my honourable colleague the Honourable Member, Mr. Richards, said, we on this side have a particular affection for the Bermuda Small Business Development Corporation. It was set up, clearly, many years ago under a different Government. Some of us actually had responsibility for a number of years.

[Inaudible interjection and general uproar]

[Gavel]

Dr. the Hon. E. Grant Gibbons: Under the United Bermuda Party Government.

See? Here we go again, Mr. Speaker. It is the small shiny things which tend to attract people sometimes.

[Laughter]

Dr. the Hon. E. Grant Gibbons: Now, Mr. Speaker, I think what we have said is that, by and large, the Bermuda Small Business Development Corporation

not only has had good intentions ever since the beginning—and I include former Governments and current Governments in that in terms of how it has been managed. But they have also done a good job. And the Honourable Member, Mr. Richards, said exactly that.

So, naturally, Mr. Speaker, we are going to have some questions when there is an effort to sort of insert or, as the Honourable Member just said, enlarge the powers, because we want to make sure—that is part of our job on this side of the House—that the direction and the changes are constructive and are headed in a good direction.

Now, let me get back to the critical issues at hand here. We have heard a lot of expression about capital this afternoon, Mr. Speaker, and the capital of the Bermuda Small Business Development Corporation. That issue of capital, or substance, or assets—I am being a little broader here—is an important one.

Why is it important? Because if we are talking about either guaranteeing more loans or loaning money by the Bermuda Small Business Development Corporation or indeed, as this amendment proposes, making grants under the Bermuda Small Business Development Corporation, then it all comes back essentially to section 13 of the principal Act. Section 13 is very clear, because what it says is: “The amount at any time lent by the Corporation shall not exceed one-half the capital of the Corporation.”

That is section 13(3). It goes on to say in section 13(4)—and I am talking about the parent Act here, the principal Act—that, “The amount at any time guaranteed by the Corporation shall not exceed six times the capital of the Corporation.”

So the Honourable Member, Mr. Richards, when he asked, “Are you going to be putting more capital into it?” was essentially making a very simple point. If the Corporation does not have additional capital or does not have additional existing capacity, it does not have the power, even if you give it the power, to loan, grant, or guarantee any further loans.

So one of the principal questions here—and again, this gets back to perhaps the disappointment on this side of the House that we were not given more information in terms of the new Minister’s brief, which he read—is, What is the current capital of the Bermuda Small Business Development Corporation? Has that capital been maxed out in terms of the ratios here—they cannot lend more than one-half of that, or they cannot guarantee more than six times that capital? What is the current state? And if it is pretty close to the limit,—

[Gavel]

Dr. the Hon. E. Grant Gibbons:—are there plans by Government to increase the capital of the Corporation?

Because if there is no more capital and they are close to being maxed out, then, as the Honourable Member who just took his seat seemed to imply, this is simply electioneering, because without additional capital, you cannot do anything more.

Now, I do not mean to be harsh here, Mr. Speaker, but I think these are very basic issues that we would expect the Honourable Member to come with. I guess I will just throw a couple more questions in there, which I think are important. The public needs to know. And that is—

[Inaudible interjections]

[Gavel]

The Speaker: Keep these undertones down!

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

The Speaker: Carry on, Dr. Gibbons.

Dr. the Hon. E. Grant Gibbons: Some of these questions are, How much has the Corporation actually guaranteed at this point? Are they close to that capital limit? How much is the Corporation actually loaning as opposed to a guarantee? Because clearly they get a lot more bang for their buck (if I can put it that way) if they guarantee, because they can loan six times their capital. But if they actually loan money, they can loan only half of their capital.

So, have they actually loaned any money, or are they still doing what traditionally the Bermuda Small Business Development Corporation has been doing, which is to essentially backstop or guarantee a loan that one of the local banks is making? Because their capital goes a lot farther that way. So one of the questions is, Are there any loans, direct loans, the Corporation has made in the last couple of years? How many guarantees are actually out there right now?

And basically, you know, what is their sense of additional capital that may be required to take on? As the Honourable Member, Mr. Richards, said, not only smaller businesses, which do not require as much of a loan or as much of a guarantee, but medium-sized businesses where, if you are going to really have an impact, that loan or guarantee has to be substantially larger. In fact, if they start to take on a number of medium-sized businesses, it could actually choke out some of the Corporation's capability of loaning to small businesses as well. So these are, I think, some important issues here.

Now, the other question, of course, is that [as stated in section 13(5) of the principal Act], the "loans and guarantees taken together, for the benefit of any one business shall not exceed \$200,000.00." Now, that may be fine if you are talking about a small busi-

ness. But for a medium-sized business, this cap—and I am now back to section 13 of the principal Act, under section 13(5)—of \$200,000, may not be sufficient in terms of being able to deal with some of the issues that a medium-sized business is looking for. I do not know. I do not know whether that came through in the KPMG study they did. But at least there ought to be some reference to some of these controls that are in place.

Now let me talk about another control which I think is glaring and which has not been raised at all to this point. Under the power to lend and guarantee, I have talked about these ratios of either loans or guarantees, and it limits the Corporation's ability to do that. But as far as I can see, there is nothing—there is nothing in the amendments we are looking at today, Mr. Speaker—which limits the amount of grants that can be made by this Corporation.

In other words, when you loan or you guarantee, it has to be a certain proportion of capital. But there is nothing here that amends section 13 in terms of where particularly in section 13(3) or 13(4) which limits the amount of grants under these new amendments that the Corporation could hand out. So, you have got absolutely no control in terms of limits. I am assuming you could, essentially, pay out all your capital and grants, if you wanted to, because there is nothing here in the amendments which restricts that.

Now, the question I also have is, under section 12 of the principal Act, there is the power to borrow by the Bermuda Small Business Development Corporation. That is section 12(5). It says, "The amount at any time borrowed by the Corporation shall not exceed one-half the capital of the Corporation." The question I have, Mr. Speaker, is, Has the Corporation borrowed any money up to this point at all? Have they borrowed from anybody else, the banks or anybody else, under section 12? If they have, how much is that? And is there any intention to expand (I will say), to sort of leverage the capital by borrowing money? Because we have heard nothing about that whatsoever.

So all of these are, I think, pretty fundamental questions, which the Honourable Member, Mr. Richards, alluded to in asking some of the questions that he raised.

Now let me touch very briefly on this whole issue of a grant versus a loan or a guarantee of a loan. I assumed when I first read this that maybe when they were talking about a grant, they were talking about a grant which would then give the Bermuda Small Business Development Corporation equity or shares in the business they were giving the grant to. But what I am understanding from the other side is, no; this is simply an outright gift which the Corporation will now have the capability of doing. And I think we have had a number of people talk about, *Well, you know, look, the Housing Corporation kind of does this. And we give*

grants to students, and we give grants to the Football Association.

But as I think a number of Honourable Members have said, those have a very clear scheme associated with it. They are not for profit. And indeed, the Housing Corporation requires a rent from somebody if they are put into a subsidised Housing Corporation thing. This is a very, very different issue. This is a very clear departure from what governments normally do here. And, you know, as my honourable colleague the Honourable Member, Mr. Pettingill, said, you walk into the Housing Corporation, and they say, *Do you want a loan or do you want a grant?* I mean, that is a no-brainer. *Give me a grant!* You know?

But again, where are the controls? I guess I really get back to the first thing that struck me when I read this. I mean, if the Minister can give us some sense, some idea of how this would work, you know, under what circumstances would you give a grant? But we have heard nothing about that so far.

And I understand the Honourable Member has not had a chance to reply yet. But surely, if you are going to put something in which is such a dramatic departure and which is fed by taxpayers' dollars, surely, Mr. Speaker, you would come here today and you would have a very clear sense of not only criteria, but the circumstances, examples, all the sorts of things that would hopefully (maybe they do not really care anymore) make those of us on this side of the House that are supposed to have responsibility to ask these questions feel a little more comfortable about this grand scheme, this stimulating of the economy. I mean, you know, come on, Mr. Speaker. If you are going to stimulate the economy, this is a very, very small way, particularly given the capital they have. It is immaterial in that sense.

But clearly, over time, the Bermuda Small Business Development Corporation has done a good job with small businesses, with advice, with guaranteeing loans, and all the rest of it. And I think I will sort of at least end this part of it on this note: I think we really need to have better explanation and answers to questions to assure, not only us who are supposed to ask these questions, but the public out there that the future of this organisation and its ability to do what it is supposed to do under its principal Act is not adversely affected.

Now, very different issue, but the Honourable Member did [mention]—and it is in the amendments—this issue about operating and managing markets. When I first looked at this sort of broad scheme of giving them the power to operate and manage markets, I mean, you know, what really does that mean? I think the Honourable Member was trying to give a little bit of an explanation for that. What is really intended here—and I hope the Honourable Member will correct me if I am wrong—is not to manage and operate markets in a broad sense of it. But what we are talking about here are vendor markets or peddler markets.

And I think the legislation ought to be tightened down a little bit to reflect that, but we can deal with that when we get into Committee, Mr. Speaker.

So there are a couple of things, I think, that since the Government seems to be very keen, very keen on helping small business and even medium-sized businesses these days . . . But if they really want to have a bang for their buck there are a couple of things they can do right off the bat. And that is reduce taxes, which they have enlarged extensively over the last 10 or 12 years. They can start to pay their own payables on time, to small businesses and other businesses, so you are waiting only 30 days as opposed to 60 or 90 or whatever. And they can start to say, *Look. We are going to actually allocate some of Government's requests for services and goods more towards small businesses*—something that we on this side of the House have been saying for some time. All those would have a much larger impact than some of what I will call "electioneering" which appears to be going on in this particular piece of amendments.

Thank you, Mr. Speaker.

The Speaker: Thank you, Dr. Gibbons, the Honourable Member from Paget East.

Any further speakers? No further speakers?

Oh, you just got in under the wire.

I recognise the Honourable Member, Mr. N. Simons from Smith's South.

Mr. Simons?

Mr. Nelson H. Cole Simons: Mr. Speaker, I would just like to comment on what was said by the Attorney General. First, I would like to declare my interest as a banker.

Mr. Speaker, what I am hearing from the AG is that the small business people who come there are using that institution as similar to a lender of last resort. They have been to the Capital G, they have been to the NTB, they have been to the HSBC, and they have not been successful. So they are there as a last resort to help them.

Mr. Speaker, I believe that the Housing Corporation can do a lot more—

[Inaudible interjections]

The Speaker: Not the Housing Corporation.

Mr. Nelson H. Cole Simons: The Bermuda Small Business Development Corporation—

The Speaker: Yes, yes.

Mr. Nelson H. Cole Simons: —can do a lot more for our businesses by helping them prepare packages that will enable them to raise capital in the private market and not necessarily go to the banks.

Mr. Speaker, that Department can help small businesses, intermediate-size businesses, raise Private Placement Memorandums. They can help them raise Public Offering Memorandums and go to the community and say, *Listen, this is a business plan that works, this is the capital that we need, and we—people in this community—are who are flush with money.* And if you have a team that is prepared to work together with a business plan in a professional manner, there will be another source of capital, Mr. Speaker, instead of using the public money, i.e., the grants to raise capital to fund these small businesses.

And so I would suggest that the Bermuda Small Business [Development] Corporation think outside of the box, Mr. Speaker, and not just restrict sources of capital to the banking institutions. I would suggest, as I said, that they provide consultancy services to these people so that they can help them to have a better business plan, help them craft a Private Placement Memorandum and raise capital from silent or angel investors because there are people who want to help this community quietly.

And that is all that I would like to add, Mr. Speaker.

The Speaker: Thank you, Mr. Simons, the Honourable Member from Smith's South.

Any further speakers?

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

I now recognise the Honourable Member, Mr. M. Weeks, from Pembroke East Central.

Minister Weeks, you have the floor.

Hon. Michael Weeks: Thank you, Mr. Speaker.

It has truly been a hearty debate, but I am answering Mr. Simon's—the Honourable Member's—question about the services that the [Bermuda] Small Business Development Corporation offers. They do provide business plans and show the small clients how to do so.

And further, Mr. Speaker, I have noticed that we have talked heartily about two amendments—clause 9 and 12.

Clause 9 was about the grants. And I just need to say that the grants are only given out to businesses and organisations in the EEZ. They are small grants of up to \$10,000 and the requirements are: They need a set of financials, they need to produce some invoices, they need a business plan, and quarterly meetings are also a requirement with the EEZ. And these grants are used for accounting services, marketing plans, architectural fees, capital items, and the like.

[Inaudible interjection]

Hon. Michael Weeks: No. Usually only for this, but . . . usually only for disadvantaged businesses in the

EEZ who have not traditionally had access to professional services.

And in clause 12 in reference to the lands question—the ability for the corporation to purchase land is necessary to allow economic regeneration to happen for social and other purposes. For example, the Corporation currently had the opportunity to purchase Butterfield Bank in order to forward and progress the social and physical regeneration plans for northeast Hamilton. But we cannot, currently, due to only being limited to purchasing land for that purpose. Hence, the lot is still sitting undeveloped as a park and a physical blight to northeast Hamilton.

[Inaudible interjections]

An Hon. Member: One of the buildings?

Hon. Michael Weeks: One of the buildings . . . okay?

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

The Speaker: Any objection?

Agreed to.

[Gavel]

The Speaker: Will the Honourable Member from Southampton West, Mr. K. Horton, please take the Chair of Committee?

The Honourable Member, Mr. Horton, is making his way to the Chair.

House in Committee at 4:05 pm

[Hon. K. H. Randolph Horton, Chairman]

COMMITTEE ON BILL

BERMUDA SMALL BUSINESS DEVELOPMENT CORPORATION AMENDMENT ACT 2011

The Chairman: Members, we are now in a Committee of the whole House to discuss the Bill, the Bermuda Small Business Corporation Amendment Act 2011. And the Honourable Minister, Michael Weeks, has the floor.

Minister Weeks?

Hon. Michael Weeks: Thank you, Mr. Chairman.

We have 14 clauses to move and I would like with the indulgence of the Honourable House if we could move the first five?

The Chairman: The first five, all right. We will move clauses 1 to 5. Any objections to that?

Some Hon. Members: No.

The Chairman: Carry right on, Minister.

Hon. Michael Weeks: Clause 1 provides the citation of the Bill.

The Chairman: Yes.

Hon. Michael Weeks: This is the citation provision for amending the principal Act.

Clause 2 reads, . . . the amendment occurs to section 1 of the principal Act where “Small Business” is deleted in the title and substituted with “Economic” to be known going forth as the “Bermuda Economic Development Corporation Act 1980.”

And the definitions are:

“‘Economic empowerment zone’ means an area of land which is designated by the Minister pursuant to section 2A of the Economic Development Act 1968;

“‘medium-sized business’ means a Bermudian-owned and owner-operated business enterprise with at least three of the following attributes:

- “(a) gross annual revenue of between \$1,000,000 and \$5,000,000;
- “(b) net assets of less than \$2,500,000;
- “(c) an annual payroll of between \$500,000 and \$2,500,000;
- “(d) between a minimum of 11 and a maximum of 50 employees; and
- “(e) been in operation for a minimum of 10 years.”

The amendments to “Minister” and “Corporation” involve deleting “Small Business” and substituting “Economic” to be known going forth as the Bermuda Economic Development Corporation Act 1980.

Clause 4, Mr. Chairman?

The Chairman: Yes.

Hon. Michael Weeks: The amendment to rename the corporation involves—

The Chairman: Clause 4? You are going to clause 4 now, sir?

Hon. Michael Weeks: Yes, yes.

The Chairman: You are amending section 3?

Hon. Michael Weeks: Yes.

The Chairman: You are amending section 3 of the main Act, yes?

Hon. Michael Weeks: Yes, Mr. Chairman, excuse me.

The Chairman: Carry on.

Hon. Michael Weeks: Clause 4 amends section 3 of the principal Act to rename the corporation that will serve and continue its existence as a body corporate.

The amendment to rename the corporation involves deleting “Small Business” and substituting “Economic” to be known going forth as Bermuda Economic Development Corporation.

The Chairman: Yes.

Hon. Michael Weeks: Clause 5 amends section 4 of the principal Act to expand the functions of the corporation to include the operation and management of markets and to oversee and manage the development and implementation of economic empowerment zones.

This section, Mr. Chairman, specifically adds some words to cover the new remit of medium-sized businesses, entities within economic empowerment zone, and vendor markets.

The Chairman: Thank you, Minister.

Is there any other Honourable Member who would like to speak to clauses 1 through 5 in the Bermuda Small Business Development Corporation Amendment Act 2011?

I now recognise the Honourable, Dr. Grant Gibbons.

You have the floor.

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

Clause 5, Mr. Chairman—

The Chairman: Clause 5, yes?

Dr. the Hon. E. Grant Gibbons: —specifically under section 4(1). It is (ba), “to operate and manage markets.”

I noticed when the Minister just described this section he talked about “to operate and manage vendor markets.” It does not specify “vendor” or “peddler” or anything of that sort in the legislation here.

The way it is currently written it is basically the waterfront—it is incredibly open to anything, any markets, whether it be insurance or anything else that the [Bermuda] Small Business Development Corporation or the, I guess, the Bermuda Economic Development Corporation wish to manage.

I think that is . . . it should be qualified to do what the Honourable Member was saying, which is “peddler” or “vendor” markets here. So I think he needs to insert . . . would he be open to inserting the word “vendor” to operate and manage before the word “markets”?

The Chairman: Okay, let me get absolutely clear on that. You are looking at now—

An Hon. Member: Page three at the top.

The Chairman: Page three at the top of the page “to operate and manage markets.”

Dr. the Hon. E. Grant Gibbons: Vendor markets.

The Chairman: Right. You are saying it should be “vendor markets.”

Honourable Minister, would you care to respond to those comments?

Hon. Michael Weeks: I will get the answer to that, Mr. Chairman.

The Chairman: Should we just remain the same, or could you provide, maybe, some explanation?

Hon. Michael Weeks: I will take that on advisement, Mr. Chairman.

The Chairman: All right. Let us look at that . . . we can come back to that, if necessary.

Hon. Michael Weeks: Yes.

The Chairman: If necessary, if the House would agree, then we can accept clauses 1 through 4 and maybe then come back to 5, since there is not clarity there—if the House would accept that.

[Inaudible interjections]

Hon. Michael Weeks: I move clauses 1 to 4.

The Chairman: Can we move . . . I would like for the House to please respond in agreement to clauses 1 to 4.

All those in favour, please, say Aye.

AYES.

The Chairman: Those against?
None against.

[Motion carried: Clauses 1 through 4 passed.]

The Chairman: So now we will skip over 5 and come back to that, and ask that you now move onto the next clauses.

Hon. Michael Weeks: Clause 6 amends section 5 of the principal Act—

The Chairman: Minister can you take . . . are you only going to do 6, or would you do 6 to 10?

Hon. Michael Weeks: Clauses 6 through 10, Mr. Chairman, I am sorry.

The Chairman: We will now look at clauses 6 through 10—remembering that we must come back to 5.
Carry on, Minister.

Hon. Michael Weeks: Thank you, Mr. Chairman.

Clause 6 amends section 5 of the principal Act to empower the corporation to make grants. The section expands the power of the corporation to not just lend money, but to also make grants.

Clause 7 amends section 6 of the principal Act by inserting a new subsection (3) to empower the board to establish committees in respect of small businesses, medium-sized businesses, and economic empowerment zones. This allows for the board to establish committees within its three core business areas.

Clause 8, Mr. Chairman, amends section 8 of the principal Act by substituting “General Manager” with “Executive Director.” As there are or will be directors of the three units or agencies of the corporation in the future—small business agency, economic empowerment zones agency, medium-sized business agency—it makes sense to amend this title as to overall director of the corporation.

Clause 9 amends section 13 of the principal Act to provide the circumstances for grants to be made by the corporation. The inclusion of the words “grant,” “make grants,” or “make a grant” is inserted to provide more options for the type of financial assistance the corporation can offer businesses.

Clause 10 amends section 15 of the principal Act to empower the board to examine how the grants that have been made by the corporation have been applied. Similar to the existing provision for the board to have the ability to examine how loans are applied, the corporation can now ask for information on how grant funds are applied.

Thank you, Mr. Chairman.

The Chairman: Minister, thank you.

Would any Honourable Member care to respond?

The Honourable Member, Dr. Grant Gibbons, you have the floor.

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

Mr. Chairman, I would like to go to clause 9 here—

The Chairman: Yes.

Dr. the Hon. E. Grant Gibbons: —which amends section 13 of the principal Act.

The Chairman: Yes.

Dr. the Hon. E. Grant Gibbons: And as I mentioned when we were in the whole House, what this section does is it effectively amends section 13 in the principal Act which is “Power to lend and guarantee.”

The Chairman: Yes.

Dr. the Hon. E. Grant Gibbons: And, Mr. Chairman, you probably do not have the parent Act in front of you—

The Chairman: Oh, I absolutely do. You would not expect for the Chair to be here without that Act, would you?

[Laughter]

Dr. the Hon. E. Grant Gibbons: Well, I am impressed, Mr. Chairman. You are well prepared.

The Chairman: Absolutely prepared.

Dr. the Hon. E. Grant Gibbons: So you will see exactly what my issues are—

The Chairman: I will see exactly what you are talking about, Honourable Minister.

Dr. the Hon. E. Grant Gibbons: You will see under section 13 of the principal Act, under section 13(3), there is a limitation: “The amount at any time lent by the Corporation shall not exceed one-half the capital of the Corporation.”

The Chairman: Yes.

Dr. the Hon. E. Grant Gibbons: That is for loans. And in section 13(4) it says, “The amount at any time guaranteed by the Corporation shall not exceed six times the capital of the Corporation.”

The Chairman: Yes, I see that.

Dr. the Hon. E. Grant Gibbons: Within these amendments in clause 9 there is no limitation on the amount that can be given away as a grant, and I think that is an error, and that provides too much latitude to the Corporation.

If you have controls on the amount of loans you can make and the amount of guarantees you can make then, clearly, when you are actually giving away money there should be some control on that. And I think this section needs to be amended to put a control on the amount of grants that can be given away. I think it is an oversight—and it is a major oversight. And I think the Government probably needs to rise and report progress to come back and address that particular issue, Mr. Chairman. Okay?

The Chairman: Honourable Minister, would you care to respond, please, to the comments from Dr. Gibbons?

Hon. Michael Weeks: Mr. Chairman, in reference to clause 9, I would seek counsel and come back on that.

The Chairman: Are we looking at—

Hon. Michael Weeks: You said clause 9.

The Chairman: We are amending section . . . it is clause 9, yes, clause 9. And what we see here is that the Honourable Member is asking that there be some limitation on the grants that should be made. And I think we have to make a decision on whether or not there should be limitations. And I think that that is the decision that we have to make.

Hon. Michael Weeks: I will seek clarity, Mr. Chairman, and get back to you.

The Chairman: Would any other Honourable Member like to speak to that?

Hon. Paula A. Cox: Yes, Mr. Chairman.

The Chairman: Yes.

Hon. Paula A. Cox: Currently, the Bermuda Small Business Development Corporation until this Bill, amendment Bill, is passed and it becomes the Economic Development Corporation, has given grants of \$4 million and they have increased their capitalisation from \$4 million in 2006 to \$6 million.

They have, however . . . and you will see the provision for medium-sized businesses is to become effective in 2012/13. I think the Minister has, in the Committee of the whole House, indicated that the policy decision with regard to the provision of grant funding is limited to the degree that you are providing—for instance, business plan loans, the ability to make grants in order to allow a small business to have access to professional services, such as . . . before it has been accounting services, now it is being widened in terms of some of the architectural plans and things of that nature.

The Chairman: Yes.

Hon. Paula A. Cox: It is not anticipated . . . and by the way, just in terms of for a question that was raised, there certainly have been no loans from banks. The [Bermuda] Small Business Development Corporation partners with banks, but certainly no loans from banks, and that is not contemplated neither is it contemplated that there will be any increase in capitalisation. But I think you will note that the particular issue is

that from 2012/13 is when the provision of widening it for medium-sized businesses will come into effect.

And at this time it is not thought that it is required that we should put any further limitation given that the provision under the policy guidelines for providing grants is really limited to one where you make grants to non-profit charities who are operating in the EEZ and also for those plans and sort of business plan, service-providing-type plans, as opposed to any major capitalisation assistance for small businesses.

I trust that that helps the Minister who is the substantive Minister in charge.

The Chairman: Yes, yes, thank you, Minister. That certainly helps me as well to understand exactly where we are at.

Honourable Member, Dr. Gibbons, would you care to speak again to that?

Dr. the Hon. E. Grant Gibbons: Yes, thank you, Mr. Chairman.

Mr. Chairman, I understand the rationale, but it does not solve the basic problem. And the basic problem is that there is currently—and there will be if we pass these amendments—no limitation, no caps, no constraints on the amount of grants that can be given by the Bermuda Economic Development Corporation.

And the Honourable Member who speaks for Finance, the Minister, can say, *Trust us*. But the fact of the matter is [that] there is a very clear limit, a very clear cap on loans and guarantees of loans, and I think it is an extraordinary—let us call it “loophole” or oversight—not to cap grants. Particularly as there is some concern, as I am sure there will be in the broader community, on the fact that this Corporation can simply give away taxpayer’s money.

We have had no effort to provide criteria to us to give us a clear indication of what the top amount of a grant might be. We have heard numbers thrown around, about \$10,000 or what have you, but there is no cap on the amount. There is clearly a cap on the amount of \$200,000 of a loan or guarantee of a loan.

This is wide open. And I do not want to have to come back, Mr. Chairman, in a couple of months and try and bolt the stable doors after the horse is gone. I am not implying any improper motives or anything of that sort, this is just prudent governance to put this control and these things in place, so that there are very clear guidelines and the Corporation can be audited, per se. Because if there are no guidelines here, then they could simply give away, if they wanted to, half or all of the capital—it is that simple.

The Chairman: Honourable Member, I understand the point that you are making. But I think very clearly the Premier has indicated that, you know, she feels that we will be able to stay within the parameters that

are going to be necessary and unless . . . would the Minister like to speak further to that?

The Honourable Member, Mr. Furbert, has the floor.

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

It is clear that the Minister of Finance wanted to make policies on how much is given away in a grant, and they mentioned \$10,000. I am sure we put in a policy somewhere in the Bermuda Economic Development Corporation policies where they audit, handle and determine this.

I keep on hearing the Honourable Member say that they are giving away taxpayer’s money. Well, Mr. Chairman, Bahamas sets aside \$1.5 million a year for small business for grants; in Barbados they set aside “X” amount of dollars; in the UK they set aside \$5 billion in cash and kind to be given away to small businesses in grants. So Bermuda is just catching up with the rest of the world as far as giving away grants.

Thank you, Mr. Chairman.

The Chairman: Thank you.

The Honourable Member, Mr. Charles Swan, has the floor.

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

I support the whole idea of our [Bermuda] Small Business Development Corporation, but—

The Chairman: Honourable Members, if we could have some order in this House, so I can hear.

[Gavel]

The Chairman: Thank you.

Mr. Charles F. B. Swan: —the particular section that this applies to there is . . . we are amending this legislation to add the word “grants.”

In the overriding legislation there are clear guidelines as to what the Corporation can lend and/or guarantee. There are clear guidelines. So I do not see why there is any problem with adding that within this particular legislation. It would make it completely clean and make sense. The Minister has already indicated an amount, and I am sure the Honourable Member who just took his seat will know that within the Bahamas and the UK those amounts that they set aside for grants to businesses are codified in their legislation.

[Inaudible interjection]

Mr. Charles F. B. Swan: And this is a very simple thing and I do not think anyone would disagree with including it in the body in this particular section 13 as an addition.

Thank you.

The Chairman: Thank you, sir.
Would any other Member care to speak?
I recognise the Honourable Minister, Mr. Roban.

Hon. Walter H. Roban: Thank you, Mr. Chairman.
We are still on clause 9, am I correct?

The Chairman: We are actually speaking to clauses 6 to 10, but 9 seems to be the contentious matter.

Hon. Walter H. Roban: Yes. Just to comment as well on the specifics of that clause. I do believe, I think, everybody has said that the Minister has made it very clear on explanation that was requested as to what the parameters of grants will be and so has the Minister of Finance.

And, again, Mr. Chairman, statements of accountability are tabled in this House annually for the [Bermuda Small Business [Development] Corporation. So any activity of its financial statements, Members can certainly inspect them and raise questions if they see that monies that have been used by the Corporation that they are issued around that.

So to suggest, as has been implied by some Members on the other side, that the accountability around the Corporation is loose or could be suspect since that is what seems to be suggested is really just . . . I just find it to be very foolish.

The Chairman: That is rather a strong word, Honourable Minister.

Hon. Walter H. Roban: Well, it is a foolish statement.

The Chairman: Rather a strong word.

Hon. Walter H. Roban: I am not calling anybody foolish, it is the statement I found to be foolish, Mr. Chairman.

And I do think, since they have lauded the Corporation and its activities all this time, that certainly they should see that what we are suggesting in this amendment, in clause 9, is . . . with the explanation of the Minister and the Minister of Finance will be handled in the appropriate manner.

Thank you, Mr. Chairman.

The Chairman: Thank you.

The Honourable and Learned Member, Mr. Pettingill, has the floor.

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

The Honourable Minister who just took his seat . . . the whole point, with respect, . . . and I accept entirely from the Honourable Member that these things will be done correctly . . . that is not the point. Everybody who is saying they can be done correctly,

Mr. Chairman, could get hit by a truck tomorrow. And somebody else has to step in their part.

It is Parliament that has to be alive, it is Parliament that has to give energy and life to its words, it has to be contained—he is shaking his head!

Are you telling the country that it does not have to be in the law? This is not the law according to Ministers, and Finance Ministers, and a PLP Government. The law that they want to pass has to be written in the law. And this is sacrosanct; we are not playing games here. Come along . . . and you cannot lay down—as much as one might like to accept it, and say . . . because I would take any Honourable Member at their word—but the word is not good enough. The word of an Honourable Minister is not good enough, Mr. Chairman.

The word has to be contained within the legislation and that is what we are here to do and we are here to get it right. And the Honourable Member can shake his head *foolishly* as much as he wants to, in my respectful comment, because it makes no sense not to have these things clarified.

It makes no sense in a piece of legislation to clearly outline the parameters within which you can grant a loan and come along and insert something so powerful as the word “grant”—to say you are going to give away money—and not clearly set out what that provision can be.

MOTION TO RISE AND REPORT PROGRESS

[*Standing Order 32(15)*]

Mr. Mark Pettingill: Mr. Chairman, I have to move that this House sensibly rise and report with regard to this piece of legislation and this particular area. They will look silly again if it goes to another place where independent Members catch on and clearly say we cannot do it that way. Let us get it right and let us get it right in the place that it should be gotten right.

We are here, Honourable Members, to pass laws for this country, not for the benefit of electioneering or anything else, but to pass laws that are clear for all—clear for Ministers that follow the Ministers that sit here today—when they die, the legislation has to go on. When Parliament is hit by the bus, it must go on. And we must get it right here.

And they know full well, they know full well that it is not written in this document as it should be and if it is written in relation to loans and it is not written in relation to grants it does not make sense. It is not good law. And let us get it right, please, and let us work together to do it. Rise and report.

The Chairman: Honourable Members, Standing Order 32(15) indicates that “If a Member, before the conclusion of proceedings on a Bill, moves to report progress and such motion is carried” . . . and so we have a move—

Mr. Mark Pettingill: I move that motion, yes.

The Chairman: He moved a motion. The Honourable Member, I believe, moved a motion.

Mr. Mark Pettingill: Yes, I did. I did.

The Chairman: I heard the Honourable Member move the motion, and I would like to put the motion to the floor.

An Hon. Member: Once you report progress to the floor, you cannot stop it.

The Chairman: The Standing Order states very clearly, and I will read the Standing Order to Members. All right? I will read the Standing Order to the Members.

Standing Order 32(15) says, "If any Member, before the conclusion of proceedings on a Bill, moves to report progress and such motion is carried;"—if the motion is carried, all right? Would you listen? Would you listen to the . . . and then you might, you know, it might help us—"or if the proceedings in Committee have not been finished at the conclusion of a sitting, the Chair shall rise and report progress to the House and shall ask leave to sit again."

So we have a motion on the floor and I will put the motion to the House.

All those in favour of the motion put forward by the Honourable and Learned Member, Mr. Pettin-gill, that we rise and report progress . . . all those in favour say Aye.

AYES.

The Chairman: Those against say Nay.

NAYS.

The Chairman: The Nays have it.
Names?

[Bell rings]

The Clerk:

DIVISION

Motion to rise and report progress on the Bermuda Small Business Development Corporation Amendment Act 2011

AYES: 10

Mr. John Barritt
Dr. Hon. E. G. Gibbons
Mrs. P. Gordon-Pamplin
Mr. Donte O. Hunt
Mrs. Louise A. Jackson
Hon. Trevor G. Moniz
Mr. Mark Pettingill

NAYS: 19

Hon. Glenn A. Blakeney
Mr. Marc A. R. Bean
Hon. D. V. Burgess, Sr.
Hon. Dale D. Butler
Hon. D. N. Butterfield
Hon. Paula A. Cox
Hon. Z. J. S. De Silva

Mr. E. T. (Bob) Richards
Mr. N. H. Cole Simons
Mr. Darius D. M. Tucker
Hon. Ashfield E. De Vent
Ms. Lovitta F. Foggo
Hon. Wayne L. Furbert
Hon. Dennis P. Lister
Hon. Walter M. Lister
Hon. Patrice K. Minors
Hon. W. N. M. Perinchief
Hon. Walter H. Roban
Hon. Michael J. Scott
Hon. Dame Jennifer Smith
Hon. H. (Kim) E. Swan
Hon. Michael Weeks

The Chairman: The Ayes were 10 and the Noes were 19. So, the Noes have it.

[Defeated on division: Motion to rise and report progress on the Bermuda Small Business Development Corporation Amendment Act 2011, failed.]

The Chairman: We will continue now with clauses 6 through 10. We were discussing clauses 6 through 10. We have had considerable discussion.

Is there any other Member who would like to speak?

All those in favour of clauses—

[Inaudible interjection]

The Chairman: You would like to speak with reference to clauses 6 to 10?

Carry on, Mr. Furbert.

Hon. Wayne L. Furbert: Mr. Chairman, the idea of setting parameters . . . if we could look at the principal Act, as the Honourable Members have been arguing that, as far as giving away as much as you want, the principal Act talks about granting of loans and other forms of financial assistance. There are no parameters within that particular Act. As far as right now the Corporation can give away the—

Dr. the Hon. E. Grant Gibbons: Point of order, Mr. Chairman.

The Chairman: Point of order, Dr. Gibbons?

POINT OF ORDER

Dr. the Hon. E. Grant Gibbons: That is absolute nonsense. The Honourable Member needs to read section 13 of the principal Act.

[Inaudible interjections]

Hon. Wayne L. Furbert: Mr. Chairman, granting financial assistance . . . there is nothing in here that talks about financial assistance as far as parameters. And I am asking the Member to show me in any sec-

tion where financial assistance is talking about parameters. That is what we are talking about.

[Inaudible interjection]

Hon. Wayne L. Furbert: It is not there. There is no section in there that talks about giving away parameters on financial assistance. So if the Board says I am going to give financial assistance to company “X,” no matter what we call it, there are no parameters. And my point is that it was never there in 1980 and why are we trying to bind the Board by them right now and trying to give some impression that the Government is trying to hoodwink the country?

Mr. Mark Pettingill: Please, I didn’t come here to teach school Good Lord!

The way that the law works . . . forming legislation you have to read the one section into the other so that when you talk about financial assistance you read that in what type of financial assistance is the question you would ask. You would read “loan,” as it exists under the Act, and then you would see the parameter contained in “loans.” Get some advice from your legal counsel! Nonsense!

Hon. Wayne L. Furbert: Mr. Chairman—

The Chairman: Carry on.

Hon. Wayne L. Furbert: Mr. Chairman, I understand the gentleman. The OBA—the Old Boy’s Association—is getting a bit upset.

[Laughter]

The Chairman: Honourable Member, stay on, stay on, stay in line. Let us not speak to the . . . speak to the legislation.

Hon. Wayne L. Furbert: I am sorry. I keep on mixing those words up.

But, Mr. Chairman, it talks about financial assistance. That is my point. It talks about financial assistance in the current principal Act and their Learned Member talked about compare or read to another section—it is not there! It is not in the current Act as far as financial assistance. And the Honourable—

An Hon. Member: He is missing the point, Mr. Chairman.

Hon. Wayne L. Furbert: I am not missing a point. I am not missing any point.

[Inaudible interjection]

Hon. Wayne L. Furbert: I am not missing any point.

[Inaudible interjections]

The Chairman: Honourable Member, I think . . . anything further, Honourable Member?

Hon. Wayne L. Furbert: The Honourable Member, who is a lawyer, said that the financial assistance is in there. It does not say that. It says the granting of loans or other forms of financial assistance. If they were talking about financial assistance being loans, they left it out. But it says “other forms of financial assistance.”

An Hon. Member: Like guarantees, Mr. Chairman, like guarantees.

The Chairman: Take your seat, Member.

Hon. Wayne L. Furbert: That is my point. It could be guarantees. It could be grants also.

[Inaudible interjections and general uproar]

Hon. Wayne L. Furbert: It could be grants also, Mr. Chairman.

The Chairman: The Honourable Member, Mr. Furbert has the floor. Listen to him! Listen to him and then when he is finished, have your say.

Hon. Wayne L. Furbert: Financial assistance could be grants; it could be, maybe, venture capital, Honourable Member. It would depend on interpretation or maybe the policy of the Board. They could determine that under their policy, *we will define financial assistance as venture capital.*

The Chairman: Thank you, Honourable Member.

I would like to recognise the Honourable, Patricia Gordon-Pamplin.

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

Mr. Chairman, the Honourable Member—

An Hon. Member: I feel like a deer in the headlights—Wayne got me. Oh, wow, I am slammed!

[Gavel]

Mrs. Patricia J. Gordon-Pamplin: The Honourable Member who just took his seat has just brought in another, I guess, explanation or description of financial assistance to say that it also includes grants.

That Honourable Member did indicate earlier that he was actually a Minister. I wonder if he could tell us how many times, as Minister responsible for small business development, did somebody come to him and ask him for a grant, and how many did he permit? Because he knows that he had no authority,

that it did not include grants, and under no circumstances was this intended to be construed as including grants.

“Grants” under this legislation is clearly a new concept. Otherwise, there would have been no necessity. Section 13—

The Chairman: I do understand that. I think the Honourable Premier earlier brought some clarity to that and I thought we were—

Mrs. Patricia J. Gordon-Pamplin: And that it was new.

The Chairman: —above where we were going to be.

Mrs. Patricia J. Gordon-Pamplin: It was new. And the Honourable Premier and Finance Minister indicated that this was a new concept that was going to be limited to \$10,000, and to charitable organisations within the EEZ. I think that is what the Finance Minister said.

But the Member who just took his seat indicated that, *No, no, the Finance Minister does not know what she was talking about, that financial assistance was—*

Hon. Wayne L. Furbert: Point of order, Mr. Chairman.

The Chairman: Point of order.

POINT OF ORDER
[Misleading]

Hon. Wayne L. Furbert: I never said that.

The Chairman: Please take your seat, Minister.

Hon. Wayne L. Furbert: Ask the Member to retract that because I never said that.

An Hon. Member: You implied it.

Hon. Wayne L. Furbert: I never said that the Finance Minister does not know—

The Chairman: The Honourable Member did not say that.

Mrs. Patricia J. Gordon-Pamplin: I retract that.

It is my impression, from what the Honourable Member said, that he believes—that is my impression, that I am entitled to have—that the Finance Minister does not know what she is talking about by saying that this is a new concept that presently—

Hon. Wayne L. Furbert: Mr. Chairman, Mr. Chair-

Mrs. Patricia J. Gordon-Pamplin: —does not exist in the present legislation.

Hon. Wayne L. Furbert: Mr. Chairman, she is imputing improper motive. My impression—

The Chairman: Minister, do you have a point of order?

[Inaudible interjections]

Mrs. Patricia J. Gordon-Pamplin: There is no point of order, Mr. Chairman.

The Chairman: Carry on.

Mrs. Patricia J. Gordon-Pamplin: I am entitled to my opinion and that was my opinion which I expressed.

But what I wanted to say was that when it was specific with respect to loans and guarantees—

The Chairman: Yes.

Mrs. Patricia J. Gordon-Pamplin: —the amounts were specific and it is there for a reason. Purely from an accounting perspective, we cannot have open-ended financing.

We have specifically said that the mantra of this Government—they have told us many times—is to give people a hand up and not a handout. Grants become handouts in the context of economic empowerment as they talked about in stimulus packages.

All we are trying to suggest is that in order to have a complete, balanced situation that we look at the parameters within which the [Bermuda] Small Business Development Corporation has the funding to be able to advance either loans (which are specific to 50 per cent of its capital) or guarantees (which are six times its capital base to provide guarantees). And now that grants are added this is putting an additional, onerous financial burden on the Corporation.

And the only thing that this Honourable House is asking is that that burden be defined so that there is no confusion down the road. If the Corporation is fully extended in terms of loans and guarantees that it presently has, and we have heard that it has not been capitalised because there was no anticipation of this when we did the budgets, then it means that there really is no money there for people to come and ask for grants. I think it is that clarity that the House should put to this Bill under these circumstances, and if it does not, I guarantee it is going to come back.

I do not know how you feel, Mr. Chairman, but I hate the fact that the people down at the other place send stuff back up to us because it makes us look inept and inadequate. I think that every Member of this House wants to be able to know that we are doing a good job. And at the end of it, we want to provide

legislation that is comprehensive and that makes sense.

What we are doing now, to say that we have got it all nailed down for loans and guarantees but we do not have it nailed down in terms of the ability of the Corporation to provide—notwithstanding whether we like the terminology, but the physical, financial ability to provide—and we are leaving that open-ended just does not make sense. And I think that there is no other way that we can underscore that legislation.

The Government can reject it because it is their privilege and they have the numbers so to do. But it would be foolhardy of us to ignore our constitutional responsibility and to be called into question for exploring deficiencies that exist in this piece of legislation.

Thank you, Mr. Chairman.

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

Honourable Member, I think you made several similar points to what Dr. Gibbons had made earlier. And I think that we had some level of clarity brought after the Premier spoke and we went, of course, where we had the call for rise to report progress. And I think we are back now to where, really, we have to look at whether, in fact, we are going to pass this section or not.

So what I would like to do is ask that all those in favour of clauses 6 through 10, please, say Aye.

AYES.

The Chairman: All those against, say Nay.

NAYS.

The Chairman: The Ayes have it.

[Motion carried: Clauses 6 through 10 passed.]

The Chairman: Honourable Minister?

Hon. Michael Weeks: Thank you, Mr. Chairman.
I now move clauses 10 through 14.

The Chairman: Eleven through 14.

Hon. Michael Weeks: I am sorry, 11 to 14. Excuse me.

Clause 11 amends section 16 of the principal Act to provide the manner in which the Board may recover a grant that has been misapplied similar to the existing provision for loans.

Clause 12 amends section 17 of the principal Act to empower the Corporation with the approval of the Minister to acquire or own land. Currently, the Act limits the Corporation from acquiring and holding land. Land can only be acquired for the Corporation's own

use, i.e., its own offices, or as acquired through default on a loan guarantee and then in that scenario it must be sold as quickly as possible. The amendment allows the Corporation to hold property with no restrictions subject to the approval of the Minister.

Clause 13, Mr. Chairman, amends Schedule I to the principal Act to provide that members of the Corporation are to be paid in accordance with the Government Authorities (Fees) Act 1971. This amendment modernises the language.

Clause 14 provides for consequential amendments to the Economic Development Act 1968, the Payroll Tax Rates Act 1995, the National Training Board Act 1997, the Government Authorities (Fees) Act 1971, and the Public Service Superannuation Act 1981 (Application) Order 1985. These are Acts that contain Bermuda Small Business Development Corporation in them and need to be updated and renamed to Bermuda Economic Development Corporation.

Thank you, Mr. Chairman.

The Chairman: Thank you.

Is there any other Member who would like to speak?

I would like to recognise the Honourable and Learned Member, Mark Pettingill.

Mr. Pettingill, you have the floor.

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

Again I rise, I did this in my initial address, but this issue with regard to clause 12 and the fundamental change that it makes to section 17(3) of the Act whereby the principal Act was amended from "under a lease or tenancy as office accommodation, but shall not have power to acquire or hold land for any other purpose" whereas now [it substitutes] " , subject to the approval of the Minister, any land in Bermuda that the Board considers necessary."

With respect, that just does not clarify for what purpose. And I can see that there may well be a purpose and I will leave Honourable Members to comment on that, but it does not clarify it again in the legislation as to what the purpose would be "subject to approval of the Minister, any land in Bermuda that the Board considers necessary."

That is actually the acquisition of land. Let us be very clear about that with regard to 17(3)—acquire, hold and manage land—that . . . the secondary part of that with regard to lease . . . originally it was addressing office space issues. It now becomes, as amended, that the Corporation shall have the power to acquire, hold and manage land subject to the approval of the Minister, any land in Bermuda that the board considers necessary. Well, why?

And with respect, if you ask the question when you read a particular piece of legislation, a clause—if you find yourself asking, *Why?*—as legislators and as a lawyer, the next step is to look and see

where the explanation is contained. And the explanation has to be contained within the ambit of the Act, so it directs exactly what the power is and why you are using it. And this simply and unequivocally does not do that.

And it is not sufficient to give a reason, if there is one—and I have not heard one yet—on the floor of this Honourable place and say this is what we mean by that, this is what we will do. Once we get into that type of dialogue, Mr. Chairman, where Ministers on the other side or Members are saying, *Well, this is what we are going to do* . . . I come back to my argument in the previous clause. It is not about us; it is about this place, this Parliament, this law, which is supreme to all of us and our personalities. So when it says what it does in that particular section, it needs to have clarity. And the Act does not contain it.

And so, again, we should change this or amend it now and say it is going to be done, or we should rise and report progress so that we can get it right.

The Chairman: Would the Minister care to respond in any way to that?
No?

Hon. Michael Weeks: It is clear, Mr. Chairman.

Mr. Mark Pettingill: It is *not* clear!
Mr. Chairman, with respect, it is not clear.

The Chairman: Go ahead, Honourable Member. Yes, I understand your question.

Mr. Mark Pettingill: But that is not an answer, with great respect, while you are swimming to say, *It is clear*.

My whole point is that it is not clear because it leaves out an explanation as to why.

If the Honourable Minister can explain to me that it is clear because it explains why then I am happy to sit down and be quiet. But it simply does not do that in black and white in the law. It does not explain why. It just says that the Board, with the approval of the Minister, can acquire any land in Bermuda.

Well, the question, ergo, is *Why?* And on what basis can it do that?

And it is not an explanation to stand there and say, *It is clear*—because it is not.

The Chairman: Well, there certainly must be some reason.

Hon. Michael Weeks: Mr. Chairman, I will attempt to address this.

The Chairman: Thank you, Minister.

Hon. Michael Weeks: Landholding requirements may vary from time to time. An current example, relates to the opportunity to acquire land on the corner of Court and Dundonald Street as I explained earlier. The land currently owned by Butterfield Bank will be used to facilitate . . . and before anybody says the whole bank, no, it is not the whole bank. It will be used to facilitate the revitalisation of the EEZ and it will used as a park. I have said that at least three times, Mr. Chairman.

Thank you.

An Hon. Member: It was not clear to me.

[Inaudible interjections]

The Chairman: Thank you, Minister.

Mr. Mark Pettingill: That is within the Economic Empowerment Zone. This relates to land—

The Chairman: Land anywhere on the Island, any land in Bermuda?

Mr. Mark Pettingill: Any land in Bermuda.

[Inaudible interjection]

Mr. Mark Pettingill: It is not so, it is not so.

I can see where there is a reason for that. I am jelling on legally why there would be a reason. And I am not going to sit here and explain it. It is not my job to do that.

I think that there probably is a reason. It needs to be in the Act why you can do it anywhere in Bermuda, and it is not because you have got a building lined up to do within an Economic Empowerment Zone. That is not the reason that you are giving the Minister the power to acquire land anywhere in Bermuda. There is a reason for that. So let us keep guessing, because it needs to be in this Act what that reason is.

The Chairman: Yes.

Dr. Gibbons, the Honourable Member has the floor.

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

I think, just as an example here, if the Minister were to consider adding something like this after the phrase “subject to the approval of the Minister, any land in Bermuda that the Board considers necessary” if the Minister were to add something like—*for the purposes of advancing its responsibilities under the Economic Empowerment Zone*—or something of that sort, then it would be clear as to why and would put parameters around the acquisition of land—something along those lines.

The Chairman: Thank you, sir.
Minister?

Hon. Walter H. Roban: Yes, just adding a few humble words to this discussion, Mr. Chairman.

The Chairman: Yes, carry on, Minister Roban.

Hon. Walter H. Roban: Despite some of the specifics that have already been outlined by a number of Members on this side as to our concentration on the economic zones, the [Bermuda] Small Business Development Corporation's purpose still extends to the whole Island. So why be so limited with such a provision when, despite the fact that the economic zones are an area of specialty for the Corporation, they still should be able to do activities outside of that through the rest of the Island, including acquire land?

I do not see what the problem with the Honourable Member can be. Certainly, it is still a body whose own purpose must be extended to the wider community—not just in the economic zones.

The Chairman: Thank you, thank you, Minister.

Yes, the Honourable Member, Mrs. Gordon-Pamplin has the floor. She has a question.

Mrs. Patricia J. Gordon-Pamplin: Based on the Minister's explanation that he has just given, the question that I have is, Does this include giving the authority to the Corporation to acquire land for speculative purposes to either develop, purchase as completed places, rent, flip, and use the profits to give the grants? I mean, where are the powers and where are the limits?

The Chairman: Minister, would you like to answer that?

[Inaudible interjections]

Hon. Michael Weeks: Yes, yes.

Mrs. Patricia J. Gordon-Pamplin: Yes, it does?

Hon. Michael Weeks: Yes, it does.

[Inaudible interjections]

The Chairman: Thank you, Minister.

The Honourable Member, Mr. Cole Simons, has the floor.

Mr. Simons has the floor, Members!

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

Mr. Chairman, while we are on this topic, I have not sat on a Private Bills Committee since I have

been in the House. We have seen many private Acts come to this House that have—

The Chairman: Hold on, Minister.

I think that we have one meeting going on in this House. There is one meeting going on in this House. If the Chairman can hear, it would be helpful. So can I ask Members to, please, keep it down.

Mr. Nelson H. Cole Simons: As I was saying, Mr. Chairman, I have sat on the Private Bills Committee since I have been in this House and we have seen many private Acts come through the House. And when it pertains to land holdings, we insist that an upper limit of acreage be applied to the legislation and not have an open-ended ability to acquire land.

So I would have thought that to make this comply with other companies which own land, that this would have an upper limit as far as the amount of land that can be held by this Corporation, i.e., if it is two acres, if it is three acres, have it enshrined in the legislation as is required and as demanded by other companies which hold land in Bermuda.

The Chairman: Thank you.

The Honourable and Learned Member, Mr. Pettingill.

Mr. Mark Pettingill: Mr. Chairman, look at where we are going!

We are now discussing the purchase of land in this Act, which is economic development—the Corporation giving out small business loans. That is all it is. We are now talking about . . . and the Minister has agreed that this section is giving the Board the power to speculate on land purchase—nothing to do with this Act. And certainly, I am sure, that is a fundamental piece of legislation. If that is what this is here for . . . and I cannot accept that this must be the purpose of this legislation, because—

The Chairman: I certainly do not think that is the whole purpose of this legislation, Honourable Member.

Mr. Mark Pettingill: It would now be, if that is the purpose of this legislation, if that is now the most significant aspect of this legislation, everything else pales in comparison.

They can now buy a \$10 million piece of property on speculation that it will be worth \$20 million. That is what the Minister has just agreed as posed by my honourable friend. That is what we are saying we are doing. And this was my concern, Mr. Chairman, when I rose at the beginning—

The Chairman: Right.

Mr. Mark Pettingill: —it was not clear.

The Chairman: I certainly do not read that as being the case. I do not understand that as being the case.

Mr. Mark Pettingill: The Minister said it was.

The Chairman: That is not . . . I certainly do not think that that is the case. So if we can have some help here just to make sure—

[Laughter]

Mr. Mark Pettingill: Let us ring the alarm, Mr. Chairman.

The Chairman: Just so that we can clarify that that is certainly not the case. But my understanding certainly is, Honourable Members, that that is not the case.

Mr. Mark Pettingill: But my point, if I may Mr. Chairman, my point is that one is to be forgiven for falling into the trap or making the mistake that that could be the case because it is so wide open and so ambiguous that it is not clear.

I agree with you, Mr. Chairman, when you say you are sure that is not the case, because I am sure it is not meant to be the case either. But if the Honourable Minister thinks it might be the case . . . that just highlights the fact that there is a real problem with the way this is drafted and what we are trying to ram through here today. Because future people down the road and people in the public who we pass these laws for are going to look at that and say, *Oh, I think that might be the case.* And that cannot be the way that you put legislation out into the laws of this country, with that type of question hanging over it.

The Chairman: Thank you.

I think that just to move on from this, I would just like to get real clarity on that, so that at least we know that that is not the case—that we are able to purchase land in that manner, in speculation.

If we can just have a comment to the House that . . .

[Inaudible interjections]

Some Hon. Members: Man the life boats!

Hon. Michael Weeks: Mr. Chairman, I am just . . . if you will indulge me.

The Chairman: Yes, Honourable Member, I am taking my time and I want you to take your time as well.

[Pause]

Hon. Michael Weeks: If I may, Mr. Chairman—

The Chairman: Yes.
Minister, you have the floor.

Hon. Michael Weeks: Okay, the purchase of land simply is to encourage economic development.

[Inaudible interjection]

An Hon. Member: That is the answer?

An Hon. Member: No.

An Hon. Member: That's worse. That's worse!

[Inaudible interjection]

Mr. Mark Pettingill: Come on.
Mr.—

The Chairman: Mr. Pettingill, I did not ask you to speak yet.

Mr. Mark Pettingill: I am so sorry. I am so sorry.

The Chairman: Okay, Honourable Member, you may now speak.

Mr. Mark Pettingill: I am so sorry, I will rise again, I am so sorry. I know he is an old schoolteacher.
Thank you, Mr. Chairman, I apologise in my zeal to—

The Chairman: It is okay.

Mr. Mark Pettingill: —to try and get the laws of our country—

The Chairman: That is okay. We want to get it clear. We want to get it straight.

Mr. Mark Pettingill: Well . . . does the Chair feel clear now on that?
I don't.
Now the explanation is that that is to—

[Inaudible interjection]

Mr. Mark Pettingill: —speculate. But now we are on to that it is part of the economic empowerment—that the Board can purchase land anywhere in Bermuda?
Who is that economically empowering?
That is not economically empowering the individual businessman—the small business owner—that this is designed to benefit. That does not relate to that.
So purchasing of land anywhere in Bermuda?
That is one heck of an expansion on the powers of this Act from where we started the day. It is not contained anywhere in the Explanatory Memorandum. It is not, certainly, explained in that section again,

which is ambiguous at best—vague at worst—and difficult to understand exactly what it is intending.

But, with respect, that does not make any sense and that is not clear and that cannot be that it is to the intent of the Act of that section. It cannot be.

The Chairman: Member, thank you. Thank you, Member.

I am having some challenges as well, Members. I am having some challenges . . . as we move forward with this. And I think it is only fair to all of us here that there is . . . I thought we were there, you know, after the Premier spoke, we were there. You know, but now there seems to be much unreadiness . . . and I am just trying to see what we need to do here.

Minister?

Minister? Is there anything further that you can add from your . . .

Hon. Michael Weeks: No, Mr. Chairman.

The Chairman: Nothing further to be added?

Hon. Michael Weeks: Nothing further.

[Inaudible interjections]

An Hon. Member: You cannot make it up as you go.

The Chairman: Then, Members, we have clauses 11 to 14 that I would like to move. And I would ask that all those in favour of clauses 11 to 14, please, say Aye.

Dr. the Hon. E. Grant Gibbons: Mr. Chairman, maybe if I could make a suggestion—

The Chairman: Honourable Member?

Dr. the Hon. E. Grant Gibbons: Clearly, clearly, you are uneasy. We are very uneasy over here to simply give a blank cheque.

I think this is a good time to rise and report progress. We still have the issue on clause 5 that has not been addressed at this point either. I think it would just make good sense, Mr. Chairman.

The Chairman: Members, I am . . . you know me, you can see that I am not—

[Inaudible interjection]

The Chairman: I am not happy with the fact that there is . . . that there is . . . complete clarity on this and—

Hon. Paula A. Cox: Mr. Chairman, may I assist?

The Chairman: Yes, yes.

Hon. Paula A. Cox: I would suggest that you decide that on the third reading. There will not be a third reading this evening because, clearly, the Minister would want to make sure that he has the language right.

The Chairman: Yes.

Hon. Paula A. Cox: It is quite clear from the originating instructions there is no intention to have any speculative—

The Chairman: Right.

Hon. Paula A. Cox: —property purchased by the Economic Empowerment Zone. It is also clear that since the Economic Empowerment Zone is not just in the Northeast Hamilton area, but it is also in the eastern ends—

The Chairman: And the west.

Hon. Paula A. Cox: —and the western ends. And this is to facilitate property for that.

The Chairman: Yes.

Hon. Paula A. Cox: I am not a drafter, but I would say that if . . . to give Members comfort . . . but let me just also back up.

Remember, one of the most key pieces of legislation that we deal with is the Immigration Act. What do we also do under the Immigration Act? The Minister who has responsibility for immigration and the work permit policies has policies. They do not come to this House—and I think it is a fatuous argument, and it is a flawed argument to say that everything is immortalised and embedded in the legislation.

The Economic Empowerment Zone, the Bermuda Small Business Development Corporation (before we pass legislation to make it the [Bermuda] Economic Development Corporation) operate under policy guidelines. That is important. And that is documented. And it has a certain . . . while policies can have flexibility . . . but when a Minister gets hit under the bus or dies, there still are policy guidelines. So let us take that off the road as if that is an issue.

However, since if . . . to the draftsmen or whoever they are, in the House or not . . . if Members of the Honourable House feel that they want further clarification and they feel that there is some ambiguity, what I would suggest is that there are two options. The two options from a Parliamentary procedure process are: (1) rise and report progress or (2) that we do not have a third reading.

Those are the two [options]. I would respectfully suggest that that might be the better view—not to have the third reading. Notwithstanding that I am not the substantive Minister. But clearly, I was the sub-

tantive Minister who dealt with the issue of the KPMG Report, who knows the originating thinking of the legislation and its ethos, and who knows what is the process and the policy thinking.

So that is my suggestion to you as the Chair.

The Chairman: Thank you. Thank you, Honourable Premier for those options presented. And, certainly, I can—

Hon. Trevor G. Moniz: Just to say for the sake of clarity from this side of the House, we would support the Premier's second thing—not having a third reading as proposed.

The Chairman: Thank you. Thank you for helping me along that way.

Thank you, Premier, for those words.

I think there is no question that the House was not happy. And I think that if this can be a satisfactory solution to this problem, then it would be good.

But we first must have clauses 11 through 14 accepted. And then we must go to clause 5 because we have not done clause 5 yet.

So all those in favour of clauses 11 through 14, please, say Aye.

AYES.

The Chairman: Those against say, Nay.

Nays.

The Chairman: I think the Ayes have it. It sounds like we are tired, too. It sounds like we are tired.

[Motion carried: Clauses 11 through 14 passed.]

An Hon. Member: We just want to get a break.

The Chairman: We will now move to . . . back, rather—to clause 5.

So Minister would you like to speak to clause 5 now?

Hon. Michael Weeks: Thank you, Mr. Chairman.

On clause 5, if I could clarify that a little quicker than we did the last one.

The Chairman: Clause 5 had to do with the—

Hon. Michael Weeks: The vendor markets—vendor?

The Chairman: Yes. Right. I think the question was where it had [5](ba) “to operate and manage markets.”

I think the Honourable Member, Dr. Gibbons, was concerned about vendor markets, I believe.

Dr. the Hon. E. Grant Gibbons: That is correct.

The Chairman: And wanted to see that.

Hon. Michael Weeks: Mr. Chairman, the word “vendor markets” adds no value or clarity to the description of markets according to legal counsel and/or the dictionary meaning of “market.”

The Chairman: So we will just leave it as “markets.”

Hon. Michael Weeks: We will leave it at that, yes.

The Chairman: Leave it as “market.”

Dr. the Hon. E. Grant Gibbons: Mr. Chairman?

The Chairman: Honourable Member, Dr. Gibbons, do not jump too soon now because you can get in trouble if you jump up too soon. Sit there on the bench then get up.

[Laughter]

The Chairman: The Honourable Member, Dr. Gibbons has the floor.

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

Mr. Chairman, the other possibility here, so that it does not include stock markets and insurance markets and, you know, capital markets and all the rest of it (which is clearly way outside the provision of this particular legislation), is “peddler.” Which the Honourable Member, the Honourable Minister, also used to operate and manage “peddler” markets—

The Chairman: Peddler markets.

Dr. the Hon. E. Grant Gibbons: —which is, I think, what the Rubber Tree Market is all about and that sort of thing.

Thank you, Mr. Chairman.

The Chairman: Thank you.

Minister, anything further?

The Honourable Member, the Attorney General, Minister Scott has the floor.

Hon. Michael J. Scott: Can I say that during the analyses at WEDCO “vendor markets” was contemplated. It was realised that they are two nouns—“vendor” and “market”. It does not do anything in terms of assisting with its definition.

“Markets” subscribes to an ordinary dictionary meaning, and this is why we stepped back from trying to characterise it or give an adjective to it.

The Chairman: *Adjective-ise.*

Hon. Michael J. Scott: Thank you, “Mr. Principal.”
So that is the reason and it is a good one—

[Motion carried: Clause 5 passed.]

The Chairman: Thank you.

Hon. Michael J. Scott: —in my view. That was considered by us when we examined and vetted the Bill.

The Chairman: Thank you, Minister.
Honourable Member, Dr. Gibbons.

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

Then the solution is very simple. That under this section which includes definitions they need to put a definition for the word “Market” and we would be satisfied. Maybe they could look at that before the third reading.

Thank you, Mr. Chairman.

The Chairman: All right. Thank you very much.
Would you care to do that Minister?

Hon. Michael Weeks: Yes.

The Chairman: Look at the suggestion that the Minister has brought with reference to looking at that before the third reading?

Hon. Michael Weeks: Yes, Mr. Chairman, we will take that under advisement.

The Chairman: Thank you.
All right. So then let us now look at clause 5. All those in favour of clause 5 with the change suggested, please, say Aye.

AYES.

The Chairman: Those against?

[Inaudible interjection]

The Chairman: Sorry, there was no change.

[Inaudible interjection]

The Chairman: Right. There was an undertaking to take a look at the suggestion that came from the Honourable Dr. Gibbons.

[Inaudible interjection]

The Chairman: All right. All those in favour of clause 5, please, say Aye. Those against say Nay.

AYES.

The Chairman: The Ayes have it.

The Chairman: So that means, Members, that we have clauses 1 through 14 which have been agreed upon.

Honourable Minister, would you now please move the Preamble?

Hon. Michael Weeks: Thank you, Mr. Chairman.
I move the Preamble and I move that the Bill be reported to the House.

The Chairman: Thank you, Minister.
The Bill will be reported to the House as passed.

[Motion carried: The Bermuda Small Business Development Corporation Amendment Act 2011 was considered by a Committee of the whole House, passed without amendment, and will be reported to the House.]

[Pause]

House resumed at 5:12 pm

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

REPORT ON BILL

BERMUDA SMALL BUSINESS DEVELOPMENT CORPORATION AMENDMENT ACT 2011

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

[Gavel]

The Speaker: That brings us to the next Order.
And I think that Order No. 3 . . . there is no need to call it out. Order No. 3 is being carried over.
Madam Premier, there are no further matters before the House.

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

The Speaker: I recognise Madam Premier, yes.

SUSPENSION OF STANDING ORDER 21

Hon. Paula A. Cox: I move that Standing Order 21 be suspended to enable me to move that the Bill entitled Specified Business Legislation Amendment Act 2011 be now read the third time by its title only.

The Speaker: Any objection?
Agreed to.

[Gavel]

[Motion carried: Standing Order 21 suspended.]

The Speaker: Carry on, Madam Premier.

THIRD READING

SPECIFIED BUSINESS LEGISLATION AMENDMENT ACT 2011

Hon. Paula A. Cox: The Specified Business Legislation Amendment Act 2011, I move that that Bill do now pass.

The Speaker: Any objection?
Agreed to.

[Gavel]

[Motion carried: The Specified Business Legislation Amendment Act 2011 was read a third time and passed.]

The Speaker: The other matter is being held over for third reading.

Madam Premier, there are no further matters before the House.

ADJOURNMENT

Hon. Paula A. Cox: Thank you, Mr. Speaker.
I move that the House do now adjourn.

The Speaker: Any objection?
Agreed to.

[Gavel]

The Speaker: The House stands adjourned until Friday next at 10 am.

[Gavel]

[At 5:14 pm the House adjourned until 10:00 am, Friday, 10 June 2011]

