

## SECOND READING

### MUNICIPALITIES AMENDMENT ACT 2013

[Continuation thereof]

**The Speaker:** MP Scott—

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

I remember at a Prayer Breakfast a couple of Prayer Breakfasts ago I was having a conversation with one of our Court of Appeal justices before we embarked upon our breakfast, and he tested me on the question of what is, in my view, the more important principle. The answer became between a number of alternatives, democracy was included. But the very clear answer that the justice was hoping that I would give was the rule of law, and that is the most important core principle for any country and any democracy. It is, of course. This issue of the Municipalities Act has gone through the strains and iterations of the prior Government, and, you know, I have to acknowledge too that now, this, the OBA Government, is dealing with this issue. I want to believe, too, that they are dealing with it for the right reasons including the development of the waterfront and all that that entails.

As I have read the Act, it is fairly unobjectionable, save for the element that the last speaker has just referenced. As an attorney, as a legalist, I too am concerned about the retroactivity element of the legislation. I think Mr. De Silva, the Honourable Member, was quite right about two points he just made. They bear some repeating: The process of streamlining the attraction of developers into our country is something that we have been seeking to achieve across the years—attracting with investments. So the bureaucracy of [approvals by] Cabinet and Ministerial followed by a legislative approval for development goes and flies in the face of this kind of streamlining.

The other issue is the reputational interest and the reputational damage that may flow from this Act because in the brief . . . and I listened carefully. I am astounded about the silence in the brief that deals with the Government's policy on what is the penalisation policy attaching to the retroactivity. It was just not mentioned. It was completely omitted, and whenever you pass retroactive laws as a matter of principle, retroactive laws are made either to penalise past conduct or to target a particular person or group of persons. We should have heard something about that in this House when we have a piece of legislation that is for a . . .

It is a rare thing to have retroactive legislation. You can have it. And I understand all of the principles. You can allow it because of the parliamentary sovereignty. This Parliament can dispose of any prior piece of legislation. But here is the thing. It appeared in the Municipalities Amendment Act [2013] and it has skimmed over this whole question—it has just been

stated—we have the *ab initio* provisions that are provided about for any leases that have been entered into, and what is clear is that on the publication of the notice by the Minister, any lease not approved by the process, now that it has been introduced in the amendments, shall be void, *ab initio*. The point is that that represents the potential destruction or the actual destruction of lawfully entered into commercial agreements. I think that we have not been well served by the silence on this point.

The Bill contains within its provisions the very applicability of principles of good governance, which recognises transparency and due process. Those are the principles. And yet the Government has not been forthcoming on what is the policy of this particular retroactivity. And it should be disclosed, in my view, so that the people of the country who are listening to this debate, so that the people of this country who are watching us pass this particular amendment to the Municipalities Act understand what that policy is—what is being targeted, who is being targeted, what past conduct is being targeted—and then let the people decide. And then let people decide.

But it should not be omitted. And they should not be silent on this issue, because, just as I stated at the top of my remarks, there is the whole question of global norms—global norms across the entire world. Whilst the UK, the administering power of this Island, frowns—Mr. Speaker, I say again, they frown—on retroactive laws, *ex post facto* laws, the principle, of course, of parliamentary sovereignty technically allows *ex post facto* laws to be promulgated in this House. But look at the statements on this particular issue and what is—

[Inaudible interjection]

**Hon. Michael J. Scott:** No, no, just *ex post facto* laws.

It is very clear on taxation and it is very clear in penal legislation, criminal legislation. You do not want to deprive a Parliamentary House from the ravages of bad taxation laws. But even then . . . the principle that I am talking about is, what is the bad element about this particular . . . what is the bad element that is sought to be corrected? Tell us and let the people judge. That is the point I make, but we know it will have implications.

I was making the point, the administering power of the Westminster system that we follow frowns upon retroactive laws in any event. But in terms of global comity and global norms if you go up from North America through the Asian bloc countries, Indonesia, Norway—go across, just Google who lives by and who respect, who prohibits *ex post facto* legislation, and all of those countries do.

I say that for this reason, whilst the Parliament, your Parliament, Mr. Speaker, the one that you preside over in this country, can allow this to happen

because of the sovereignty of this place, lawyers (as I look at my learned friend, the Minister of Tourism and Transport) have commonly taken these matters up beyond our judicial framework to European courts. So this is another risk to which we might expose ourselves, and they would site global norms.

It is very clear and the Honourable Member, my colleague, Mr. De Silva, indicated that when a notice is published in relation to any current leaseholders that have contracted with the Corporation of Hamilton to void out their contract—it will have a monetary impact on the Government. So that is the other argument, that is the commercial one, but I take the broader argument about the country in which I reside pursuing retroactive legislation in the face of the norms, that it is frowned upon, and all of the reasons why it is frowned upon, without being clear and disclosing the policy around it.

Those are my concerns about this legislation. I wanted to get them on record. We have not finished the debate yet. I think the country deserves a response or an explanation to this very point. Lest it be thought that we passed this legislation and skimmed over fundamental rules of law as applied. I would make the caveat and I think I have done that very clearly in any event. I accept that the sovereignty of Parliament, the principle of supremacy of the parliament, allows it, technically, to do this. But when it does take place, it does not remove the harm, the commercial harm, even the reputational harm that can flow.

So I stand to draw that particular line under the amendment clause 14—let us say under Part 2, Disposition of Land provisions under the Municipalities Amendment Act [2013].

Thank you, sir.

## ANNOUNCEMENT BY THE SPEAKER

### HOUSE VISITOR

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

The Chair—just before you continue, I will recognise you, Mrs. Jackson.

The Chair will also like to recognise in the Gallery the Mayor and the Deputy Mayor of Hamilton who are here watching the debate. So we welcome them.

The Chair now recognises the Member from Pembroke [South West], MP Susan Jackson.

You have the floor.

## SECOND READING

### MUNICIPALITIES AMENDMENT ACT 2013

*[Continuation thereof]*

**Mrs. Susan E. Jackson:** Thank you, Mr. Speaker.

I would like to speak today on the Municipalities Act and I would like to recognise that Hamilton, in particular, falls within the constituency 20, Pembroke South West of which I represent. So I am speaking on behalf of those that live within the Hamilton boundaries and my constituencies as Hamilton affects their daily lives.

Hamilton in particular has certainly been built, the infrastructure has been developed, people have been able to live and thrive within the city limits for a number of years and historically we have grown in leaps and bounds. Hamilton has certainly become the centre of the commerce for the Island and I can honestly say that I believe that the people—all people—of Bermuda have certainly had an opportunity to prosper and enjoy the city limits and all that it has to offer.

But there are a number of people who have been paying and contributing financially toward the development of the infrastructure of Hamilton over the years and have not had an opportunity to have that representation of late, and I believe that there is an opportunity here for everybody who falls within the city limits, whether they live and work, or just work, but if they are making a financial contribution that they should also have an opportunity to have a voice.

We have had quite a tailspin of late and certainly there have been local businesses that have been suffering within the city limits. We have had people losing their jobs, and the environment within Hamilton has become more depressed over the years, and so there is a need for us to—as a full community, Island-wide, represented by Government—a need to make sure that full attention is given to the city as it is our major focus of prosperity on the Island just now.

Somehow I feel as though even from this youngest and the smallest voice within the city limits, we are not receiving the representation that we deserve, and something needs to be done. I am just going to give you an example. I attended the Corporation of Hamilton's meeting one month shortly after I was elected into the constituency, and while I was sitting there in the Corporation of Hamilton a small group of children from the Dellwood Middle School came in, and they were well-rehearsed and they were passionate about some dangerous conditions around the perimeter of their school. There was a wall that is owned by the Corporation of Hamilton that was badly in need of repair, and the students were there at the Corporation of Hamilton to beg the Mayor and the other Members of the Council to please fix this wall, and they felt that as members of the community and, you know, as school residents of the area that they should have their needs addressed.

They were so passionate about it and they were showing as much responsibility as they possibly could and they really wanted to be recognised and represented, and I remember that. Months went by and I had actually—it had slipped my mind that these young children had even come to the meeting when

all of a sudden I see and read in the newspaper that the wall has fallen down.

So the Dellwood children stood outside where the wall had fallen and innocently and without any means of doing anything about it other than to use their voices and request help stood silently while at long last after the wall had fallen and dangerous conditions had been displayed, just as the children had predicted, we then finally have members of the corporation run down to attend to this accident that has occurred, which was the wall falling on its own accord or however it happened. But the point was that it was a situation that had not been addressed.

So I think my big concern, Mr. Speaker, is that if out of the mouths of babes the Corporation of Hamilton are not able to address the concerns of the citizens at that level then I can just imagine that those that are deemed to be fully fit and able, whether they are paying tax—

#### POINT OF ORDER

*[Misleading]*

**Mr. Glenn A. Blakeney:** Point of order, Mr. Speaker.

**The Speaker:** What is your point of order?

**Mr. Glenn A. Blakeney:** I do believe, with respect to the Honourable Member, that she is misleading the House.

**The Speaker:** Yes, how? Just tell me how she is doing that.

**Mr. Glenn A. Blakeney:** Because she is imputing improper motive on one particular incident and everyone in—

**The Speaker:** Okay, okay.

**Mr. Glenn A. Blakeney:** —our country knows that the Corporation—

**The Speaker:** All right, thanks.

**Mr. Glenn A. Blakeney:** —has served the city extremely well.

**The Speaker:** Thank you. Thank you.

The Honourable Member is making a point. I think you can completely disregard a goof, or one mistake.

But, carry on.

**Mrs. Susan E. Jackson:** Thank you, Mr. Speaker.

**Mr. Rolfe Commissiong:** Point of order, Mr. Speaker.

**The Speaker:** On?

**Mr. Rolfe Commissiong:** I have a point of order.

**The Speaker:** Are you talking about this?

**Mr. Rolfe Commissiong:** Yes.

**The Speaker:** Well, I have already responded to the point of order.

Do you have a different point of order?

**Mr. Rolfe Commissiong:** Yes.

**The Speaker:** What is your point of order?

#### POINT OF ORDER

*[Misleading]*

**Mr. Rolfe Commissiong:** The Honourable Member is misleading the House. The wall is actually the property of the Government. The Corporation has jurisdiction over and owns the sidewalk.

**The Speaker:** All right. Thank you.

**Mr. Rolfe Commissiong:** So the Government had responsibility for fixing the wall.

**The Speaker:** All right. Thanks, thanks.

I am not privy to know . . . is there a Minister here that can help? Is there a Minister here who can help? The Minister for Public Works is not here, so—

*[Inaudible interjections]*

**An Hon. Member:** Here he is.

**The Speaker:** Maybe the Minister of Public Works can help here just for that one clarification as to—

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

The Honourable Member who spoke previously is right in the sense that the wall belongs to the Government, but it was knocked down by workmen who were hired by the Corporation.

**The Speaker:** All right. Okay.

**Some Hon. Members:** Ooh!

*[Inaudible interjections]*

**The Speaker:** Thank you. That is enough. That is all I wanted to know.

*[Inaudible interjections and crosstalk]*

**The Speaker:** Honourable Member, carry on and try not to just use that one point. I do not think that is fair.

**Mrs. Susan E. Jackson:** Apologies, Mr. Speaker. It is just that I saw the Mayor in the picture front and centre so I thought that he was assuming responsibility.

**The Speaker:** Yes, all right.  
Carry on, Member.

**Mrs. Susan E. Jackson:** So I would like conclude by saying that there are a number of people within the city limits of Hamilton in particular that have a vested interest in making sure that not only is the infrastructure sound and continuing to develop, but there is clear representation, and because every person in Bermuda has involvement in, in particular, the Hamilton area I believe that there should be a more global Government involvement and participation in the development or . . . I am going to retract "development" but in the oversight and just . . . just . . . I believe that the people of Bermuda have a right to be involved in how we move forward and that includes our city limits.

I would definitely commend the Ministry for the work that has gone into developing the Municipalities [Amendment] Act 2013. I think that Minister Fahy has worked very hard on this and I believe that it is certainly for the betterment of the Island at large that we are able to take a more global or national look at how we move forward.

Thank you.

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

The Chair now recognises the Honourable Member from constituency 34, the Honourable and Learned Member, Kim Wilson.

You have the floor.

**Mrs. Kim N. Wilson:** Thank you, Mr. Speaker.

Though some of the comments that were raised principally by MP Walter Roban of—

**The Speaker:** Pembroke East.

**Mrs. Kim N. Wilson:** Pembroke East, thank you.

I thoroughly agree with particularly as it relates to the issues surrounding universal franchising and the voting. However, I just wanted to turn to another issue real briefly, and that is just with respect to legal provisions and you would have recalled that this morning I spoke a lot about a very important document called the Bermuda Constitution Order 1968, and with your consent I would like to refer to that in a few moments again.

**The Speaker:** Yes.

**Mrs. Kim N. Wilson:** I am specifically speaking about Part 2 of the legislation [Municipalities Amendment

Act 2013], under Disposition of Land, and in particular with respect to clause 14—

[Crosstalk]

**The Speaker:** I need a consultation, please.

[Pause]

**The Speaker:** Thank you. All right.

**Mrs. Kim N. Wilson:** Okay, thank you, Mr. Speaker.

With respect, I was referring to clause 14 under Part 2, Disposition of Land, Approval of Cabinet and Legislature required to validate certain agreements and dispositions.

Now, granted my learned and honourable friend and colleague from constituency 36, MP Scott, spoke quite a lot about the issues surrounding retroactivity with respect to legislation and so forth, and I think that if I can just bring one point out, Mr. Speaker, that was raised by my learned and honourable friend from constituency 36, is the situation about retroactivity.

We know when it comes to provisions of taxation as well as criminal matters there is a provision that effectively provides *inter alia*, that you cannot pass retroactive laws. However, we are dealing with legislation here that is neither of those two, and in particular I am speaking about [clause] 14. From a policy point of view, it is oftentimes considered dangerous or frowned upon to enter into legislation that has a retroactive effect. However, recognising that we follow the Westminster model, parliament is supreme.

Therefore, this Parliament can do what it wants and effectively ensuring insofar as passing legislation that may be retroactive in this case to January 2012, or 20 years ago or 50 years ago, *et cetera*, the Parliament can do so because of our sovereignty, save for in cases involving taxation and/or matters of a criminal nature.

So the issue that I would like to speak about really quickly is with respect to [clause] 14. Now, under our Bermuda Constitution, Mr. Speaker, there is a provision that speaks to protection from deprivation of property and with your lenience, I would like to just read it, I am just going to paraphrase really quickly, but this is one of the fundamental rights of our Constitution and it—

**The Speaker:** Tell me again, tell me where you are reading from.

**Mrs. Kim N. Wilson:** I am sorry, Mr. Speaker, it is from section 13 of the Bermuda Constitution.

**The Speaker:** Yes, right. I have it. I have it.

**Mrs. Kim N. Wilson:** Thank you.

And this speaks to—and, again, I will paraphrase—that no property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except for in the following . . . and there is a list of things which would allow for the following, insofar as basically the acquisition of property.

And one of them, of course, is as it relates to securing that any person that has an interest in that property shall receive . . . goodness, sorry, just a moment. Oh, for the prompt payment or adequate compensation. So I am paraphrasing, but it does provide in here that there are only certain circumstances when property can be compulsorily—

**Some Hon. Members:** Acquired.

*[Inaudible interjections]*

**Mrs. Kim N. Wilson:** Acquired. Thank you.

Purchased, stolen, taken, whatever (however you want to put it), there are certain circumstances when the Government can basically land grab. One of those circumstances does provide that in that situation, adequate compensation is paid. I am going to turn to that in a moment.

I do not know all the ins and outs about the agreements that [clause] 14 is referring to. It does speak to *any* agreement that was entered into by the Corporation on or after the 1<sup>st</sup> of January 2012 and coming into operation when this Act becomes operational. So I am going to presume that the Government has some idea of any agreements, as the Act says, that were entered into by the Corporation after that time. So we do not know whether it is one, two, twenty, thirty . . . we do not know whether or not those agreements and/or contracts cumulatively were worth hundreds of dollars, cents, millions of dollars. We do not know that either. And perhaps the Minister will be able to—

*[Inaudible interjections]*

**Mrs. Kim N. Wilson:** Precisely.

Perhaps the Minister, when he responds later on in the brief, will be able to give us some type of an indication because right now . . . and I appreciate, Mr. Speaker, that we do not have the numbers on this side. I get that. However, I am certain that the members of the public would like to know that here we are standing, debating the Municipalities [Amendment] Act 2013 and effectively there is a provision in this legislation that allows for the Government to invalidate contracts that were entered into after the 1<sup>st</sup> of January 2012, regardless of the contracts.

What is scary is that the words “any agreement” are contained. It does not say agreements that were with respect to (I don’t know) a restaurant, or agreements with respect to purchasing a boat. *Any*

*agreement* that was entered into after that date that deals with the sale of land, the lease, the conveyance or other disposition of any interest in land.

We are being asked to vote on something, Mr. Speaker, that we do not even know the details of. We do not know how much it is going to cost. We do not know how many agreements are outstanding that relate specifically to clause 14. We do not know whether litigation has started in anticipation of this. We know nothing, but we are being asked, again, appreciating that we do not have the numbers here, to blindly approve a piece of legislation that we do not know material facts concerning it.

One of the other factors that is in this legislation, and I am sure that many of my friends would have looked at this, is the issue concerning [clause] 10 *[sic]*, page 14, and it is . . . I am sorry, Mr. Speaker, it is, to be specific—

**The Speaker:** Not page 14.

**Mrs. Kim N. Wilson:** It is on page 14—

**The Speaker:** Not [clause] 10.

**Mrs. Kim N. Wilson:** But it is subclause 10.

**The Speaker:** Oh, subclause 10.

**Mrs. Kim N. Wilson:** [Clause] 14(10).

**The Speaker:** Right.

**Mrs. Kim N. Wilson:** And it is referring to sections 10, 11, 12, 13, 14 and 15 of the [Acquisition of Land Act 1970](#).

Basically this Act is saying . . . sorry, the Municipalities [Amendment] Act [2013], [clause] 14(10) is saying that those particular sections (10 through 15 of the Acquisition of Land Act [1970]) shall apply to any question here. Now, please, this is going to be difficult, because I do have it on BlackBerry. If you do not mind, I would like to read a couple of excerpts of that section 10 through 15 [of the Acquisition of] Land Act [1970].

**The Speaker:** Okay.

You are reading section 10?

**Mrs. Kim N. Wilson:** I am going to start with [section] 10, Mr. Speaker. But again, I am just going to paraphrase. So let me just set the stage because I feel like I am talking too fast, so forgive me.

**The Speaker:** That is all right.

**Mrs. Kim N. Wilson:** Under the existing legislation, the Government has a provision in here that is allow-

ing for a land grab, so to speak. We do not know all the details, but they can do it.

But the Government is referring to an arbitration procedure so in the event that somebody feels aggrieved by [clause] 14 . . . so let us say that Kim Wilson has entered into an agreement with the Corporation, and it was entered into on the 2<sup>nd</sup> of January 2012, for me to have a little tuck shop in the parking lot somewhere. I have my lease and it was entered into, in good faith by me, on the 2<sup>nd</sup> of January 2012.

The Government, under this piece of legislation, has the right, effectively, to invalidate that agreement. If I am aggrieved . . . and the process that is listed talks about I have to apply to the Minister and rah, rah, rah, rah, rah. So it is quite a lengthy process. However, then it indicates that in order to determine my claim, so to speak, it has to go to arbitration. They are saying the Governor, then the Minister says to the Governor, *send this to arbitration* so they can determine how much my little tuck shop is worth—my lease for my tuck shop in the parking lot.

The Governor appoints an arbitration panel, then the provisions under the Acquisition of Land Act 1970 apply and that means that the panel, the arbitrators, have to consider the following, and I am reading from section 10, Mr. Speaker.

**The Speaker:** Mm-hmm.

**Mrs. Kim N. Wilson:** I have to get my glasses.

The Governor appoints the arbitrators. And then it talks about the arbitrators have the right to summon people, *et cetera*.

Now, when it comes to inspecting the land and the factors in which the arbitrators are to consider as it relates to determining the value, *et cetera*, *et cetera*, as to this acquisition are as follows: Naturally, the value of the land at the time in which the compulsory acquisition took place, any special suitability or adaptability of the land where the value of the land is increased by reason of the use thereof of the premises; where the land is and, but for the compulsory acquisition, would continue to be devoted to a particular purpose.

And then it goes on and says that the arbitrators shall also take into consideration any damage likely to be sustained by the person interested. So Kim Wilson's little tuck shop that is in the corner of the parking lot, for which I have a lease . . . the arbitrators must consider any damages that are likely to be sustained by me, [and] any damages likely to be sustained by any person by reason of severing the land or acquiring the land.

So if I had to pay somebody to draw up my lease and build my little tuck shop, *et cetera*, *et cetera*, all those damages the arbitrators must consider for my lease under [clause] 14 and the sections of the Acquisition of Land Act. They must also consider any damage that will be sustained by me in terms of finan-

cial loss. Any of the financial loss that will be sustained by the person—me—interested in the lease as a direct result of the acquisition and is directly attributable to such acquisition.

It then goes on to say that the arbitrators are not allowed to consider things like urgency and so forth.

However, Mr. Speaker (thank you for your indulgence), the last provision I want to read talks about the award of the arbitrators and that the award can be made and that it should come from the Consolidated Funds for payment in accordance with what the person was entitled to, if the arbitrators made an award. It is based on a majority vote, *et cetera*, *et cetera*.

So, Mr. Speaker, thank you for your indulgence, but I just wanted to highlight that section because I think it is important that when we speak about [clause] 14 in the land grab, that the provisions under the Acquisition of Land Act apply, in particular, when it talks about the Consolidated Fund. So that is another question I would like for the Minister to answer. Have we anticipated how much money we are going to be taking out of the Consolidated Fund? I guess to hold in escrow, so to speak, in anticipation of these claims that could potentially arise in [clause] 14?

**An Hon. Member:** Contingent liabilities.

**Mrs. Kim N. Wilson:** Contingent liabilities.

My second point that I want to speak about, another legal point . . . so I have touched on the Constitution and the arbitration—

**The Speaker:** You are really learning me up tonight. I am enjoying this.

**Mrs. Kim N. Wilson:** I am doing my best.

**The Speaker:** I am enjoying this, Honourable Member.

**Mrs. Kim N. Wilson:** And this is free! This is free legal advice!

**The Speaker:** I am really enjoying it.

**Mrs. Kim N. Wilson:** Mr. Speaker, the final point that I want to raise, again, that has severe legal implications is about agreements.

As a matter of law, when you are talking about agreements and contracts you have certain essential elements. You have to first have an offer, you have to have an acceptance; you have to have an intention to create a legal obligation and consideration. Those are the basic elements of a contract.

Again, using myself as the illustration, I have gone to the Corporation of Hamilton, I have discussed with them my idea of having a tuck shop on the

northwest corner of City Hall car parking lot. I have entered into discussions. I have entered into an agreement. They have agreed. I have entered into a signed agreement. So there is my agreement. But we said, remember, we spoke about in [clause] 14 any agreement that was entered into, they have the right to invalidate it. Right?

Yes, there are damages implied. But let us say for example, in my illustration, that I spent \$2 million on this little tuck shop. I mean, it was sharp. It had stainless steel this—it was sharp—and all the damages I am able to prove and quantify, I can get from the Government as a result of the provisions that we have spoken about. But what we have not heard, and I will just say this one final time, Mr. Speaker, the Government has not provided an explanation as to which agreements are out there.

What are we talking about? Are we talking about hundreds of dollars, thousands of dollars—we have no idea.

So, Mr. Speaker, my final point relates specifically to the process, and that is, again, the legal process. After the arbitrators have awarded me \$2.00 and I am aggrieved because I spent \$2 million on my tuck shop, I have a right to appeal. I appeal it to the Supreme Court. I am not successful in the Supreme Court. I do not like the order of the Supreme Court, or the Government does not like the order of the Supreme Court. We appeal to the Court of Appeal. I am not happy with that. They are not happy with that. There is another ground of appeal, another appellate jurisdiction, which is the Privy Council. And in this case it would not surprise me—because I would probably consider it if I was being deprived of my land by virtue of [clause] 14 which we have already heard is retroactive, and I felt that my rights under the Constitution, [with this] deprivation of property, were being impeded, I might apply to the European Court.

Then if I am not successful or if the Government is not successful, that process that I am speaking about, Mr. Speaker, can take years—years and years of legal processes.

Some lawyers may say that the whole litigation process is designed to make the person that has the deepest pockets succeed. But my concern is that that process can take many, many, many years. So, in the meantime, what chances do we have of anybody . . . let us talk about our reputational risk. How many business people [are there] that may be interested in investing in Bermuda, but see this great cloud overhead because of this pending litigation and do not want to touch us and decide they want to go somewhere else?

Mr. Speaker, when you look at the length of time that it could take for these litigations, for the process to take place, let us talk about Bermuda's reputation, our international reputation.

Mr. Speaker, with your indulgence, I want to just refer to a [Royal Gazette](#) ad, a newspaper article,

that was dated on the 21<sup>st</sup> of September this year and we have in front of us the newly appointed Chair of the Bermuda Business Development Corporation, Mr. Stephen Lund, and what he is saying is, and I quote, "Reputation, reputation, reputation is the mantra for countries . . . we want to get high-grade foreign investment. We, in Bermuda, want to do business with the best of the best: . . . companies" *et cetera*.

So here we have all these people, and I do not know how much they are paying him, but we have this individual and others who are trying to promote Bermuda as a business jurisdiction of choice and our reputation is key. So if I was Daddy Warbucks and I had all this money and I was interested in investing potentially in Bermuda and I read in the *Financial Times* newspaper (and I hope this is not reported there) that the Bermuda Government in 2013 is passing retroactive legislation that has the effect of cancelling any commercial agreements that were entered into after the 2<sup>nd</sup> of January 2012, I would take my money elsewhere.

We have to make a decision here. Are we in it to win it? Are we in the business to ensure that our reputation stays intact? We are signed on to all kinds of TIEAs. We are trying to do our best to get off of the grey list. We are signed on to the Organisation for Economic Co-Operation and Development (OECD) agreements, Financial Action Task Force (FATF), all kinds of international agreements and obligations because we want to sure that our reputation is sound.

So in that regard we are doing our best to continue with our reputation, but on the other hand that can be cancelled in one fell swoop by us passing legislation that not only do we not know all of the issues of concerning the agreements and financial implications and everything, but a business person is going to say, *Well, hang on a minute. What kind of Mickey Mouse country am I dealing with where the Government of the day can come in . . . we know that Parliament is supreme. We get that about parliamentary sovereignty, but do you mean that I can have an agreement signed and sealed, offer, acceptance and consideration in my hand, and I have done all my due diligence and worked to advance my business agreement, and the Government can turn around and say with one fell swoop, "Cancelled! Rip it up! No, you do not have an agreement!"?*

If you do not think that that is not going to affect, Mr. Speaker, with respect, Bermuda's international reputation, I do not know what will. It scares me. Like they say, either fish or cut bait. Piss or get off the pot. We have to decide.

*[Inaudible interjections]*

**Mrs. Kim N. Wilson:** Are we in it for business?

**The Speaker:** Honourable Member.

**Hon. Mark J. Pettingill:** Point of order.

**Mrs. Kim N. Wilson:** I retract that.

**The Speaker:** Yes, thank you.

**Mrs. Kim N. Wilson:** I apologise, Mr. Speaker.

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

**Mrs. Kim N. Wilson:** I do apologise.

#### POINT OF ORDER

*[Misleading]*

**Hon. Mark J. Pettingill:** Point of order.

**The Speaker:** There is a point of order. Yes?

**Hon. Mark J. Pettingill:** With great respect, my honourable and learned friend is misleading the House.

She is mentioning commercial agreements and the Act does not reference commercial agreements. So getting into all of this provision with regard to commercial—

**The Speaker:** It mentions agreements. What does it mention?

**Hon. Mark J. Pettingill:** Not commercial agreements. The Act is clearly dealing with the sale of land which is—

**The Speaker:** Just a . . . just a—

Members. One person speaks at a time in this place.

Carry on.

**Hon. Mark J. Pettingill:** Thank you, this is a very important legal point.

It is not all commercial agreements. That could be a plethora of types of agreements. This is dealing with the disposition of land. It is grossly misleading to say all commercial agreements.

*[Inaudible interjections and crosstalk]*

*[Gavel]*

**The Speaker:** I said that you are to be quiet!

**Hon. Mark J. Pettingill:** Yes, and 21-year leases specifically is what we are dealing with as far as agreements under the Part 2 which deals specifically with the disposition of land (1A) any agreement for— (a) the sale of land which is the property of the Corporation; or (b) a lease, conveyance . . . exceeding twenty-one years.

That is it! That is specific—it is not all commercial agreements. Anybody out there listening to that is going to think *Oh, wow, dealing with this, dealing with that*, a little kiosk in the corner and all the rest of it. Nonsense, with respect.

That is objectionable and misleading. You have to get it right.

**The Speaker:** All right. Thank you.

Honourable Member, do you appreciate that?

**Mrs. Kim N. Wilson:** Yes, I do.

If I want to use my example of my little kiosk on the northwest corner that I spent \$2 million for in the northwest corner of City Hall parking lot in which I engaged agreements and an offer and acceptance of an agreement in which I received a 21-year lease for . . . so the only qualification is 21 years!

*[Laughter and crosstalk]*

**Mrs. Kim N. Wilson:** So, any agreement that has been entered into after the 1<sup>st</sup> of January 2012, over 21 years.

Now my learned friend, the Honourable Attorney General, indicated that it was a plethora of agreements and we were not speaking about a commercial agreement. However, with respect, the legislation as proposed says “any agreement.” “Any” means any—that could be commercial. The only *proviso*, or the qualifier, that perhaps I did not make clear, and by all means it was not intentional, was that it must be for a term exceeding 21 years—any agreement exceeding 21 years.

*[Inaudible interjections]*

**Mrs. Kim N. Wilson:** I read that part, Mr. Speaker. I read about land. I am talking about my example of a lease on the northwest corner of City Hall with my lunch wagon. They have leases, and if my lease is over 21 years, it fits squarely into this. And if it was entered into after the 1<sup>st</sup> of January—

*[Inaudible interjection]*

**Mrs. Kim N. Wilson:** Thank you. The other Attorney General, oh, sorry—

**An Hon. Member:** *The Attorney General.*

*[Inaudible interjections]*

**Mrs. Kim N. Wilson:** Thank you. Mr. Speaker, I apologise.

**The Speaker:** You are on a good line. I think you are handling yourself well. It was a good objection and you are handling yourself well. So continue on.



**Mrs. Kim N. Wilson:** Thank you.

Do you know what? Actually, Mr. Speaker, I think that I might have to end on that note because I do not want to go down.

*[Inaudible interjection]*

**Mrs. Kim N. Wilson:** Yes, quit while I am ahead.

In closing, Mr. Speaker, I find it offensive and somewhat scary that we have a Government that is prepared to risk Bermuda's international reputation, the one that we have spent years trying to develop and perfect.

*[Crosstalk]*

**Mrs. Kim N. Wilson:** We passed the cruise ship matter this morning and we are talking about what we are trying to [do to] build tourism, to build our infrastructure, and to build our reputation and our economy. Our economy is tied to our reputation and we are now getting ready to pass an Act that is going to say that the Government can say sovereign—this brings a new meaning to Parliamentary sovereignty.

Thank you, Mr. Speaker.

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

The Chair will now recognise the Honourable and Learned Attorney General, Member from Warwick [North East], Attorney General Mark Pettingill.

You have the floor.

**Hon. Mark J. Pettingill:** Thank you, Mr. Speaker.

Good evening, honourable colleagues.

**The Speaker:** Thank you.

**Hon. Mark J. Pettingill:** Mr. Speaker, I must say with the greatest respect, it sounds like there is some substance to it but, you know, it is just scare mongering at its best. The example was best taken in the objective of saying—

**The Speaker:** Well, I think—

**Hon. Mark J. Pettingill:** —all commercial agreements. But, with respect, that would cause people fear. That would cause . . . if somebody in the international community, which is what my honourable and learned friend was addressing, like—

**The Speaker:** Well, then, please, clear it up, Honourable Member.

**Hon. Mark J. Pettingill:** That is a type of thing, by saying that as a generalisation, would make people sit up and go. I think we have already emphasised that with the objection. But, again, my friend has dived back into it.

I think there are a couple of very, very important but pedantic legal points, and not necessarily everybody who is listening, with great respect, will necessarily understand. But it is important that the public and Honourable Members have an understanding of what exactly is transpiring here and why.

Let me just say this . . . and we heard a lot earlier today with regard to people that sat in Opposition saying one thing and then saying another. Well, how about this, Mr. Speaker: How about a former Government, the former Government, the PLP Government, that clearly as part of their proposal of the Government was going to establish a framework that would, and I quote, "absorb the operations performed by the municipalities."

Now that is what they were intending to do. Let me be very specific about how much they were intending to do that. They spent \$800,000 on consultants to address that issue! I have tried Stirling in Bermuda, the lawyers, and McKenna, Long and [Aldridge] of the US.

*[Inaudible interjections]*

**Hon. Mark J. Pettingill:** *Did they put it out to tender*, I hear the interpolation.

I do not know!

But I know this: It is a fact that they spent \$800,000. So when we talk about sitting on one side—

*[Inaudible interjections]*

**Hon. Mark J. Pettingill:** Now people talking out of both sides of their mouths.

Let us just have everybody ponder that for a second. Why would the previous Government in 2009 put together and spend that type of money on establishing a framework to absorb the operations performed by the municipalities, and they are talking about all commercial agreements in that one, not just land disposition, but everything.

*[Crosstalk]*

**Hon. Mark J. Pettingill:** Because that was the mandate. So, let us just be fair because, with respect, they all know, they all know, having sat over—

**The Speaker:** The Honourable Members all know.

**Hon. Mark J. Pettingill:** The Honourable Members all know.

Those Honourable Member all know, having sat over there, what their intention was in 2009 with regard to the Corporation and municipalities. So to come along today and try and suddenly be horrified that the OBA Government is being the big, bad wolf. And I heard terms like "land grab" and all the rest of it.

These things have to come to the House for review, for us to go over. There is no land grab. We are not going to go down and snatch Aunt Millie's kiosk. You know? And with great respect to my honourable and learned friend, it is something of a nonsense, with great respect, to say that an individual with a hot dog stand kiosk would have a 21-year lease. That is just not a land/commercial type agreement that one would see. You do not roll up with your hot dog stand and get a 21-year lease.

And, by the way, if the Corporation were of the mind to do that, that is the very reason we need to take over this type of approach and bring things here. That is the very reason! If they are prepared to give a 21-year lease to a kiosk . . . then I entirely applaud why the Minister is bringing it here. You know, Aunt Millie and her hot dog stand for 21 years . . . please! Please! That is just not the way that anything that is sensible is going to transpire.

We all know what is going on here, why it is going on here and what the checks and balances are. I had a chance today to look and see the Mayor of the Corporation. The Member sent around his lovely little letter and it looked like it had a legal opinion, you know, that was attached to it that seemed to be making all of these great points. We have heard all these things about the Constitution thrown around today, and then when I stopped and had a good little bit of consideration of what was attached, it is not an opinion at all. It might have been made by a lawyer, but there are some comments. They clearly asked for some comments. What they got back were things like saying these types of lines: *It is impossible to predict. The potential—*

**The Speaker:** You—?

**Hon. Mark J. Pettingill:** I am reading from the comments that were attached to the letter—

**The Speaker:** That was sent by the Corporation that we were handed today?

**Hon. Mark J. Pettingill:** —that the Corporation—

**The Speaker:** Actually, I got one. Thank you, thank you.

**Hon. Mark J. Pettingill:** So, if I may? It is important. I am highlighting—

**The Speaker:** Yes, go ahead.

**Hon. Mark J. Pettingill:** If we are dealing with legalise, if they think that they got some opinion that highlights why this legislation should not pass, and that is all the more reason we need to be here doing what we are doing. That is all the more reason it is a little scary because all replete through the comments that were

clearly made by some lawyer in their letter . . . and these are important terms, Mr. Speaker, that you will appreciate.

As I said, the first one is, "It is impossible to predict," when you are talking about the issues with regard to the restraint on powers. There is a "potential" for constitutional conflict.

Well, Mr. Speaker, you heard me speak on that today. That is why I have no problem with having what will end up being a big compliment at the end of the day with regard to my comments on the Constitution that I made in another place, because it is the umbrella—the Constitution. And any constitutional lawyer (and many of us regard ourselves as that type of lawyer) will be able to tell you, because it is an umbrella, there is always the potential for a constitutional conflict. There is always the potential to look at a situation to say, *You are breaching section 13 of the Constitution with regard to the Acquisition of Land*. There is always that potential.

That is why we have constitutional-type applications in the court, so people can go armed with the Constitution and say, *You have breached the Constitution*, and have a decision made on that basis. That will always arise if there is an argument. The checks and balances. And this Act is replete with them throughout.

**An Hon. Member:** Mm-hmm.

**Hon. Mark J. Pettingill:** It is replete with the checks and the balances right up the chain which is safe for the people of this country. Because as much as some people might want to say, *Technically, that land is owned by the Corporation*. That land, like all land, belongs to Bermudian people at the end of the day. That is what it is about. Bermudian people have to have the right to say what goes on in their city.

It is not the United States of the Corporation of Hamilton or the United Streets, or whatever term they want to give it, and you have a president of the Corporation and they are like the Vatican in Rome and have become a country. They are not! That seems to be the type of approach that is being put out there. There is this feeling that the Corporation is its own nation like the Vatican in Rome with the Pope. Well, it is not. It is a corporation.

What we are doing here—and I will come to this in a minute because it is important—this is good governance! That is what this legislation is about. It is about good governance. It is about the senior people in the positions right here, the legislators, being able to look at this and say, *Hold on, we need to have more checks and balances about what is going on*. And do that in accordance with international standards and how municipalities are looked at and viewed in other places and, yes, mould it for what we have going on in special and unique Bermuda.

But it is a checks-and-balances operation right through it, right up to the Attorney General. And let me say this: It does not mean the Attorney General can just come skating in and say, like, *Oh, yes, absolutely. Well, we are going to do this*, because I am bound to act in a certain way and if I do not, there is the power of the courts for people to bring what is called an *ultra vires* action against me. To go along and make an application to the court saying that the Minister is acting *ultra vires*, which means beyond his powers, outside of the scope of his powers.

And if people are paying attention, they have seen—there were many challenges like that with the previous Government. Some of them are still going on. Some of them relate to land, too. Where different interested parties—and you can be any interested party—is coming along and saying the Minister overstepped the mark with the decision that he made there. So let us not pretend as we rouse people up that we are doing something as the big bad OBA Government that is beyond the realm of contemplation and goes against the grain of what any sensible Government may want to look at doing.

Let me turn back, Mr. Speaker, to that comment, which is an opinion, which we have bantered about. It says, “Have the effect of permitting the Government to retroactively invalidate private agreements without the need to give any reason or providing justification of any kind, full foul of the Constitutional goal”—

#### POINT OF ORDER

**Mr. Walter H. Roban:** Point of order, Mr. Speaker.

**The Speaker:** Yes, what is your point of order?

**Mr. Walter H. Roban:** I rise hesitatingly to . . . I just want to make sure the Honourable Member is not misleading the House by reading that letter and with the suggestion that we are using it in reliance to our arguments. We are not.

**The Speaker:** Well, he does not—

**Mr. Walter H. Roban:** That letter belongs to the Corporation and it is there—

**The Speaker:** He has not said that.

**Mr. Walter H. Roban:** Okay, I just wanted to be sure.

**The Speaker:** He has not said that.  
Carry on. He has not said that.

**Hon. Mark J. Pettingill:** With respect, just to be clear, you know what they have done . . . they have been lobbied. And that is okay, there is nothing wrong with that. The Corporation has lobbied. They have entered

into a big lobby today. They have addressed letters to every Member of the Legislature. I do not know if you got one as well.

**The Speaker:** Yes, I have one.

**Hon. Mark J. Pettingill:** You have one, too, so you know what I am talking about.

The Corporation has brought a big lobby, and let me say this . . . I encourage that type of thing. I think lobbying is an important thing. I think that involves people that have an interest [and they] should lobby to a degree to their politicians. It gets a bit crazy in other places as to what goes on, but here that is a good thing. That is what you should do.

If you have issues and concerns and so on, then you know, you lobby. You might call up and say, *We need this done. We need a law that says that*. That is lobbying. But we have seen a big lobby today. We have seen a lobby come along with a letter from the Corporation and then they have attached to it what appears to be . . . I think they bandied around, Mr. Speaker, in the media saying they had an opinion to support it. And you can see full well what it is.

Somebody has sent them a note with some comments about what concerns there might be. But even the positions that are raised that they have sent around are all things that require a reasonable test. All things, Mr. Speaker, that can be tested in the court. All things that can be looked at in Parliament, and this is not said once, and let us be clear about this.

Within the Corporation's lobby, there is nothing that is saying that what is being suggested here runs completely afoul of the Constitution and would be invalid in law. Nobody has expressed that view. With respect, I will tell you why no one has expressed that view—because they would be wrong. They would be wrong. So, just like we had the position earlier when we talked about constitutional interpretation, and my honourable and learned friend, my very honourable and learned friend, the Minister of Tourism, Mr. Crockwell, and I were having a good chuckle as lawyers, because we know.

You know, lawyers are hired guns. You give them this to look at this argument and they go and argue it. They are learned in the law. You give them this argument they go and argue that because they are very, very . . . and the reason, Mr. Speaker, the reason that we have courts, the reason that we have debates here, the reason that we have courts of appeal, the reason that we have a Privy Council, the reason we have all these checks and balances is because the law is a complex thing. A complex thing.

We had a debate over the word “obligatory.” You know, one word! And issues going backwards and forwards, all over the place. It is complex. And that, Mr. Speaker, is why we have the checks and balances we do.

So, just to reiterate, there is nothing that has been put forward by the Corporation and their lobby or by Honourable Members on the other side—let me be clear about that—or by other Honourable Members on the other side, that is saying pellucidly that this runs afoul of the Constitution. Even my honourable and learned friend with her hot dog kiosk or . . . yes, her hot dog . . . Wilson's Hot Dog kiosk. Even her hot dog kiosk, what she was saying was, with respect to the Honourable Member, that it is open to challenge. It is open to her to bring Wilson's Hot Dog Ltd. to court against the Minister.

**An Hon. Member:** Good hot dogs.

[Crosstalk]

**Hon. Mark J. Pettingill:** Good hot dogs, but the lease might be foul! Right? The hot dogs might be great and the lease might be poisonous, and that gets to get tested.

So, nothing that is being said there is capable of saying . . . let me give you another example. In the commentary that the members of the Corporation got and that they sent around, and it appears with great swagger—the *Bill must therefore give rise to grave constitutional concern*. Well, that is legal language and, boy, if you paid me for a comment or opinion and I want to be on your side, man, I would be saying that, too! I would be saying, *Wow, geez, this is deprivation of property and to my mind that gives rise!* In other words, that is open to argument to a constitutional concern.

Okay, I will take that. I will take that and I would invite Honourable Members, Honourable and Learned Members or judges to point me to a single piece of legislation that if facts fell in a certain way would not rise or give rise to some constitutional concern.

That is what happens when you have a Constitution that is an umbrella over all the other laws. You look at the laws, and this happens all the time. We study this in law school. It is called conflict of laws. One Act may seemingly conflict another. You know, you are not allowed to speed over the speed limit, but in another section of the Act you are if there are special conditions. You know, so there is nothing so rigid that sensibly looking at it, sensibly looking at it, that there may not be a commonsensical position that allows for some give. That is what the law is all about.

If you have provisions like you do in this Act that has been brought here today by the Honourable Minister that sits in another place, the Act is replete with the tests and the balances that are essential for those protections.

So the opinion that the Corporation has goes on to say things and address things like *the Minister's belief*. And this I know is being raised by Members on the other side. And, *This gives rise to this type of*

*power of interference*. Well, if it gives rise to it, Mr. Speaker, that is where you have the courts where you can check these things. That is when you go to court and bring your constitutional issue—not in this place!

If you want to argue law in this Honourable House, you need to stand up and show where a constitutional provision in one of those sections is so black and white, is so rigid and so obvious that you are able to say this is unconstitutional and will not be valid. That is what you need to do, and point me to it, because I tend to agree with whoever wrote this opinion for the Corporation that certain things may give rise to constitutional challenges, because if the Minister were to act in ways that he should not—*ultra vires* is the legal term, beyond his powers—that may well give rise to that! If he did not follow the rules, Mr. Speaker, that may well give rise to that.

Honourable Members can all think of the times when Ministers have done things and have not followed the rules. It might be like where they have allowed an appeal that should not have been allowed for some reason, and the rules were not followed with regard to the granting of that appeal. And when that happens, in those circumstances, some concerned party will show up and say, *That has to be challenged in the court of law*. So these checks and balances are there.

Now, let me get to what many will probably regard as the boring stuff.

How am I for time, Mr. Speaker?

[Inaudible interjections]

**Hon. Mark J. Pettingill:** Fourteen minutes. Wow! I can get the whole Constitution in there.

It is important . . . I have to, with respect, if I may, refer to a note here, because otherwise as much as I try to keep everything in, it does not.

What we have to remember is that Honourable Members on that side when they were the Government—and this comes to this provision that we heard great fanfare about with regard to [clause] 14 of the Act (I think that is the retroactive one) that deals . . . my Honourable friend was talking about the retroactivity provision. It is [clause] 14 about that this was somehow a novelty of this Government, having that type of provision in there.

But let us just walk through that a second. What you have is the [Good Governance Act 2011](#). Now, if memory serves me right, in 2011, Honourable Members on that side (that are now the Opposition) were the Government of this country. They are the ones that passed the Good Governance Act 2011. In that Act they inserted sections 32(b) to 32(e) to cover the [Public Treasury \(Administration and Payments\) Act 1969](#). It all gets very convoluted.

It came into operation. Those provisions of the Good Governance Act came into operation on the 21<sup>st</sup> of October 2011. Okay? That is before the date from

which agreements that must be cited under [clause] 14 of the Bill. So their own good governance provision, their own Good Governance Act . . . and heaven knows they needed to get that passed. That is a good Act. It was a long time coming. They had it back in 1999 and many may raise the question, thinking that there was some questionable good governance that went on before that time.

So, their Act puts that operation into effect on the 21<sup>st</sup> of October 2011. The agreement that this Act is dealing with, back to the 1<sup>st</sup> of January 2012, is caught within that, in any event, as far as the test and balances go that are required under the Good Governance Act.

Now, section 32B(1) established the Office (this is of the Good Governance Act) of Project Management and Procurement. Section 32B(4) states that "The Director shall issue a Code of Practice for Project Management and Procurement to be followed by all public officers concerned with obtaining goods or services for Government."

Section 32B(6) defines "Government" as including a public authority and "public officers" including a person employed by, or acting as management position for a public authority. So everything that is going on, just to put it in layman's terms, is being safely caught in the net of *their* Act—the Honourable Members' Act, when they were the Government. So this just has not been crafted like a whiff of smoke in this Government's mind. It has been looked at carefully with regard to what are the provisions for good governance that allow this to be embraced by the existing law. What is the existing law? The Good Governance Act 2011 which has its operational date as the 21<sup>st</sup> of October 2011.

It is captured well within that. So all of these things, including contracts, pre-contractual negotiations, have a position of oversight of capital projects for the Government. Now why is it that that would be okay when Honourable Members on the other side were the Government, but somehow it is not okay now that we are? We are just embracing what they passed. We are embracing what they passed. We are embracing . . . but we did not spend \$800,000 in doing it. Exactly what they were looking to do.

#### POINT OF ORDER

*[Misleading]*

**Hon. Wayne L. Furbert:** Point of order, Mr. Speaker.

**The Speaker:** Yes, what is your point?

**Hon. Wayne L. Furbert:** The Honourable Member, and I did not say it before, but he is misleading this House.

**The Speaker:** How, how, how?

**Hon. Wayne L. Furbert:** The former Government did not spend \$800,000.

**The Speaker:** All right. Thank you.  
Honourable Member, carry on.

**Hon. Mark J. Pettingill:** Yes, they did.

*[Laughter]*

**The Speaker:** The Honourable Opposition Member says they did not.

**Hon. Wayne L. Furbert:** They did not spend \$800,000.

**The Speaker:** Thank you, Honourable Member.  
They said they did not.

**Hon. Mark J. Pettingill:** I guess we have to agree to disagree because we are not going to arbitrate it here.

**The Speaker:** Right.  
Carry on.

**Hon. Mark J. Pettingill:** Like many things, Mr. Speaker, as some point—

**The Speaker:** Carry on. We will leave that part of it out.

**Hon. Mark J. Pettingill:** I tend to be a creature of evidence.

So, Mr. Speaker, what this means, in summing up (and this is what is important to remember), from the 21<sup>st</sup> of October 2011 it was embodied in the legislation—embodied within legislation—that when it came to oversights of all capital projects entered into by a corporation, they would fall in within the provision exactly as we see it here. They were already caught. If a corporation has not followed the Code of Practice for Project Management, that would be a good ground for voiding their agreement under the PLP Government's law that they passed.

Let me repeat that. If a corporation has not followed the Code of Practice for Project Management, that would be a good ground for voiding their agreement because it would go back to the 21<sup>st</sup> of October 2011 under the legislation that they put through this House—that they put through the House.

So when we talk about misleading, jumping up and down and going on about—

#### POINT OF CLARIFICATION

**Mr. E. David Burt:** Point of clarification, please, Mr. Speaker.

**The Speaker:** Yes?

**Mr. E. David Burt:** I am just asking if the Honourable Member can repeat again where he is getting that from, where he is reading it from. I just did not catch it.

**The Speaker:** He said the Good Governance Act.

**Mr. E. David Burt:** I got the Good Governance, but he was talking about the Corporation and voiding the contracts.

**Hon. Mark J. Pettingill:** No, no—

**The Speaker:** Minister?

**Hon. Mark J. Pettingill:** Okay, I want to be clear, because if you are not getting it, and I say this with great respect, that means that a lot of people not as bright as you, may not be getting it.

**The Speaker:** There you go. You are giving him a lot of credit.

*[Laughter]*

**Hon. Mark J. Pettingill:** No, no, I will give him that. It is not a bad question. That is why I asked the permission to read through the note, as I said, I have to look at it.

Let us put it this way. I will give you the . . . and I use this term all the time, so it is no disrespect to anybody. I am always saying give me the *Dummy's Guide*, you know, because as everybody knows it is a term of a book. So you go with the Good Governance Act—start at the Good Governance Act, the former Government's Act. Start there, and the operation of that comes into operation on the 21<sup>st</sup> of October 2011.

So in other words, it is retroactive. It is retroactive! So if the Corporation did something in March, April of 2012, or May of 2012, or January of 2012, before that time back to the 21<sup>st</sup> of October 2011—if that occurred, then that legislation would cover any Code of Practice for Project Management that was not followed or was not adhered to, would be a ground for voiding any agreement.

*[Inaudible interjections]*

**Hon. Mark J. Pettingill:** No, not now, I am stating it as a provision of law. That is how it would work.

#### POINT OF INFORMATION

**Mrs. Kim N. Wilson:** Point of information, Mr. Speaker.

**The Speaker:** Yes, Honourable Member?

**Mrs. Kim N. Wilson:** Thank you, Mr. Speaker.

I am just trying to follow the line of debate here because I thought we were debating this Municipalities Act.

**The Speaker:** Honourable Member, I gave a lot of leeway to you when you spoke as well, Honourable Member.

**Mrs. Kim N. Wilson:** Just so I am clear, my point of information is that we are referring to a particular document as if it is part of this debate and—

**The Speaker:** Yes.

**Mrs. Kim N. Wilson:** I am just wondering, how does that filter in?

**The Speaker:** I think it is really . . . he is relaying it to some of the discussion that had gone on before. I see no problem with what he is saying.

**Mrs. Kim N. Wilson:** Before here today, sir?

**The Speaker:** Yes, today.

*[Inaudible interjections and crosstalk]*

**The Speaker:** Yes.

**Mrs. Kim N. Wilson:** Right, but Mr. Speaker—

**The Speaker:** Carry on.

**Mrs. Kim N. Wilson:** I might have been outside, but I was listening.

**The Speaker:** Honourable Member, he is fine with the line that he is taking. The Honourable Member is fine.

**Mrs. Kim N. Wilson:** Thank you, Mr. Speaker.

Can I just ask him to please repeat the reference?

**The Speaker:** He can repeat if he would like, but Honourable Member, I mean, if you do not get what someone says—

**Mrs. Kim N. Wilson:** No, I do get it—

**The Speaker:** —not necessarily.

**Mrs. Kim N. Wilson:** —but the reference.

**The Speaker:** No, what I am saying is that you cannot expect Members to continue repeating themselves. If he would like to, then, you know, if he would like to then he can. But if he has made a statement, if the Honourable Member would like to help the Honourable Member to be able to—

**Mrs. Kim N. Wilson:** I don't necessarily—

**The Speaker:** —and it is good that the Honourable Member understands what you say, so—

**Mrs. Kim N. Wilson:** Mr. Speaker, that is fine. I believe . . . if we are still referring to this Corporation letter. That is fine.

**The Speaker:** Yes.

**Mrs. Kim N. Wilson:** Thank you, Mr. Speaker.

**The Speaker:** Yes, yes.

**Hon. Mark J. Pettingill:** I realise in the short period of time it is like, you know, trying to put together and give a full lecture, but I will say this, Mr. Speaker, I am tired and I am going to go get a hot dog in a while because I am hungry as well.

*[Laughter and crosstalk]*

**Hon. Mark J. Pettingill:** Mr. Speaker—

#### POINT OF ORDER

**Mr. E. David Burt:** Point of order, Mr. Speaker.

**The Speaker:** What is your point of order?

**Mr. E. David Burt:** I still do not have clarity. The question is . . . is he reading, was he quoting a particular text or is he giving his opinion? I think that is clear for the debate and we should know which one it is.

**The Speaker:** Go ahead.

**Hon. Mark J. Pettingill:** That is a fair question. The last line of what I said—and I said I am referring to a note—the last line is the ergo point.

**Mr. E. David Burt:** So it is your opinion.

**Hon. Mark J. Pettingill:** No, but, yes, let us say that. But it is a pretty simple one that you could follow, with respect, all it is saying is if the corporate—

*[Inaudible interjections]*

**Hon. Mark J. Pettingill:** I did, with respect. So I said effectively then if the Corporation has not followed the Code of Practice for Project Management, which is the law—in other words, if the Corporation did not follow the law under the Good Governance Act and I took [you] through the provisions of that, that was the note.

**The Speaker:** That was what he read from.

**Hon. Mark J. Pettingill:** That would be a position of good ground for looking at voiding an agreement.

*[Inaudible interjections]*

**Hon. Mark J. Pettingill:** I think that, Mr. Speaker, this is—

**The Speaker:** Carry on. Yes, yes.

**Mr. Rolfe Commissiong:** Will the Member take a point of clarification?

**Hon. Mark J. Pettingill:** Sure.

**The Speaker:** Yes, he will take a point of clarification.

**Mr. Rolfe Commissiong:** Member, are we then to infer that—

**The Speaker:** You are asking a question. That is not a clarification.

*[Inaudible interjections]*

**Mr. Rolfe Commissiong:** Are we then to infer that—

**Hon. Mark J. Pettingill:** That is not a point of clarification.

**The Speaker:** If you are clarifying, then you are telling him what he is doing wrong. That is clarification. You cannot ask a question if you are giving clarification, Honourable Member.

**Mr. Rolfe Commissiong:** Is it not wrong that the—

**Hon. Mark J. Pettingill:** That is still a question.

**The Speaker:** Yes, that is a question, Honourable Member. Sorry.

*[Inaudible interjections]*

**Hon. Mark J. Pettingill:** Mr. Speaker, so what effectively—I am going to stop and take my seat—the reason that I [am talking about] this legislation that the former Government passed, is that it is dealing with good governance and what the checks and balances of good governance needs to be.

This piece of legislation that the Honourable Minister has brought to the House today is completely an advancement of the concept of good governance. It is an advancement that, with respect, Honourable Members on the other side, when they were Government, were clearly considering as—

*[Inaudible interjections]*

*[Pause]*

**Hon. Mark J. Pettingill:** I mentioned earlier, I want to clarify this point.

**The Speaker:** You have two minutes.

**Hon. Mark J. Pettingill:** That is fine. I just want to quickly jump in on this that when I spoke of the . . . (get it clear)—

*[Pause]*

**Hon. Mark J. Pettingill:** Mr. Speaker, when I referred to the Act of Project Management and Procurement—and . . . sorry, when I mentioned the Public Treasury Act at the outset of my submission as regards administration and payments, and I tried to follow through the line, what I should have emphasised (and I emphasise it now) . . . and I did, actually. I said it. The Government includes a public authority. So the position would be that that includes the Corporation. Okay? So that would be a public authority so it does not specifically—it is a fair question—it does not specifically say “corporation”—

*[Inaudible interjection]*

**Hon. Mark J. Pettingill:** Well, yes, that is my interpretation—

**The Speaker:** Good.

**Hon. Mark J. Pettingill:** But I think it would stand the test of argument. If anyone wants to argue that the Corporation is a public authority, good luck with that. But that is how I set it up, and then effectively from public authority, yes, I used the term “corporation” because, in my view, that is exactly what that would be.

So, in summary . . . probably thirty seconds left, I think.

**The Speaker:** Fifty-nine.

**Hon. Mark J. Pettingill:** Fifty-nine.

So in summary, Mr. Speaker, this Act . . . and this is what is a bit surprising. [This Act] is doing nothing more or nothing less than clearly what was the plan of the previous Government with regard to the Corporation as well, with regard to the advancement of their good governance legislation, the road that they were taking us down. Now they did [this in] 2009 and maybe they pulled into the layby for a bit and decided for whatever reasons not to go on the rest of the drive. But we have . . . and that is what good governance is about.

We looked at it and said in all of the circumstances and all of the things that are going on and transpiring, in looking at all these pieces of legislation and looking at good governance, your Act, we need to have something crafted that addresses the issues and concerns of the municipalities. And that is what we have done, and Honourable Members should support it across the board—

*[Timer beeps]*

**Hon. Mark J. Pettingill:** —because they were embracing it before.

**The Speaker:** That is it.

*[Gavel]*

**Hon. Mark J. Pettingill:** Thank you so much.

**The Speaker:** Time.

**An Hon. Member:** *A posteriori. A posteriori!*

**The Speaker:** The Chair will recognise the Honourable Member from Devonshire [North Central], MP Glenn Blakeney.

## ANNOUNCEMENT BY THE SPEAKER

### HOUSE VISITOR

**The Speaker:** Just before you speak, Honourable Member, the Chair wants to just recognise the fact that we have a former Member of Parliament in the House, former MP from Warwick, George Scott, is sitting in the House.

*[Desk thumping]*

**The Speaker:** MP Blakeney?

## SECOND READING

### MUNICIPALITIES AMENDMENT ACT 2013

*[Continuation thereof]*

**Mr. Glenn A. Blakeney:** Thank you very much, Mr. Speaker.

I am not going to speak much at all to the legalese save and except that as was mentioned previously, you get 20 different lawyers in the room and you get 20 different opinions.

*[Crosstalk]*

**Mr. Glenn A. Blakeney:** Okay. You know, I suppose opinions are akin to rear ends—they come in all



forms: the rear end of a car, the rear end of a room—whatever. But in any case I think I am going to go down the road with a tack regarding respective of grassroots and what this appears to be.

In response to the former speaker regarding good governance, I would concur. The former Government was about legislating and enacting good governance legislation. There is absolutely no two rules about it. The problem we have is the exploitation under the guise of good governance—

**An Hon. Member:** Mm-hmm.

**Mr. Glenn A. Blakeney:** —that is designed to disenfranchise and/or reframe through retroactivity. That is where we have some fundamental problems. So we asked a clear and pointed question. What is the real objective, and who is it really directed at?

We heard that there was the dissemination of a document from the Corporation today. And I have been reliably informed it is because, as we have heard, there was no consultation process, and they only had sight of what was going to be proposed and drafted when the proposed legislation we are debating here today was tabled. In their effort to consult whom-ever they so choose, it took up until now for them to articulate a clear position on the various concerns that they have.

You know, we have heard over and over and over, when we were the Government, all about getting it right. We heard, *Government needs to get out of the way*. How many times? *We need to roll out the red carpet and totally eliminate the red tape*. But this is going right into the heart of interference—into the heart of interfering with a duly constituted entity that has an electoral process, where the people who had a vested interest, who up until the point in time that we changed the legislation were disenfranchised in significant ways.

We know about the evolving history of the city, of this municipal capital city, in the islands of Bermuda. We know about that. So when the former Government took action behind its words to do what we felt was in the interest of the country, it was based on certain principles, but not to disenfranchise completely—almost with autonomy—and then it filtered down collective input because the Minister is the focal point and the pivot in this legislation.

Then you look at certain specifics of the legislation, particularly where it reduces the councils and removes the deputy mayor. Why? An inquiring mind—and many others in this community—would like to know. Why?

We also note that there were many engaged in the process of trying to get some fuel into the flame of capital development in the municipality, and that brings to mind this egregious proposed development. It brings to mind the redevelopment of the waterfront. It brings to mind different schools of thought and opin-

ions with regard to who should, who should not, how, why, what, where, for and all the rest. So there is ulterior motive behind utilising the framework of the legislation under the guise of good governance that is being used to do as they will. Because I will almost bet my last dollar—and I am very close to it—

*[Laughter and crosstalk]*

**Mr. Glenn A. Blakeney:** —that if the former administration of the duly elected mayor and councillors in this country, in this municipality, were still in office, we would not be here talking about this legislation today. Guaranteed! Guaranteed!

Now I, declaring my interests, [I] would be enfranchised again under this legislation. But it makes no never mind to me. I am a renter. I do my business and I leave even though it is a 24-hour operation. Because of technology there is some automation. My point being is that the vested residents in the municipality for the most part during the course of the evolving municipality over 200 years have had very minimal, if any, significant participation by invitation or otherwise, that equated into representation. That is what we looked to get right and that was the main focal point of looking at the legislation and looking to improve and looking to bring it into the 21<sup>st</sup> century.

As a result of a consultative process, we had to incur some consultant fees, and the number is argued and bantered about—I do not know how much it was to be quite honest. I cannot recall. I do not recall. But I know that it was a very proactive consultative process, which is why the legislation that was brought to this House under the former PLP Government and passed, has it where it is up until now. Because we engaged, and there was some contention along the way, there was some mixed opinion along the way, and that is what happens when you negotiate until you come to some kind of compromise.

But with regard to this piece of legislation, as has been alluded to by the Attorney General, there was remedy, and that remedy is going to come at a cost no matter how you look at it. A cost of disenfranchisement, a cost of a difference of opinion with regard to the credibility and the trust of the Government in passing the legislation that has now even turned the process on its head with three different elements to the electoral process in the municipality. It is major!

As the former Attorney General alluded to as well, you know, if the Minister makes a mistake, *ultra vires*, if he is acting beyond his powers or [because of] an oversight [there] is a reason and not an excuse which can be equated to an honest mistake, and the one who has suffered the damage looks to be indemnified through a legal process, there is the judicial review.

Now, if this goes all the way to the Privy Council, it is going to be very interesting to see where it ends up as far as a decision and a final decision has

been made. Because the Attorney General, utilising his legalise expertise every which way to kind of make it look like, you know, we are inferring there is something wrong, so point it out, if there is a point in fact which you can say, you know, it can be challenged legally. Well, no, that is why the court is there.

The legislation is not made in concrete! It is moving. It is fluid. And if you find that there was an oversight or an undersight, for that matter, you come back and you amend it accordingly. But the jury is out because I am sure that the Corporation who has surplus and is not faced with deficit—notwithstanding that there was wharfage fees taken, *et cetera*—to me it proves that there is some stick-to-itiveness, some level of appropriate oversight and vision, because we have two of the most beautiful municipalities in the world on this small Island.

Unlike the former Government and what was often cast and hurled our way inferring corruption or, you know what? It may not be illegal or criminal, but it is unethical and all this kind of stuff. We have not heard those kinds of things being bantered about or thrown about in the direction of the Corporation and the current administration. So what is the real motive behind this legislation at this time?

Hypothetically or otherwise could it be something to do with a racial context or an entitlement context?

*[Inaudible interjections]*

**Mr. Glenn A. Blakeney:** Could it be? I want to know!

Because I know for the very first time, there was a fundamental change in who sat in the seat of power in the city—the Gateway City—the capital municipality of this country. Fundamentally—change. I have never seen the likes of some who were the incumbents walking in the north of Hamilton canvassing—ever—before during an election!

**An Hon. Member:** That's right!

**An Hon. Member:** Nonsense.

*[Inaudible interjections]*

**Mr. Glenn A. Blakeney:** I do not remember seeing. Not while I was out there. I have been out there—

*[Mrs. Suzann Roberts-Holshouser, Deputy Speaker, in the Chair]*

**The Deputy Speaker:** Member, speak to the Chair. You can just speak to me.

**Mr. Glenn A. Blakeney:** I have been out there for 10 years in North Hamilton. I have been in North Hamilton for 10 years. And during an election . . . and I was not allowed in two municipal elections to vote. I will

not get into that. I will not get into that, but there was a huge and overwhelming and unusual focus on the north of Hamilton residents in the last municipal election. Soles beating the pavement and there was a sense of pride on all sides of the political divide because for the first time significant numbers of those offering themselves for office were beating on the doors, not taking it for granted because one core constituency, the corporate body politic of the corporation, as renters and as property owners, knew who they wanted and knew who would win. It was almost a no contest.

Similar to that, that happened as a result of the history of gerrymandering on the broader political landscape of this country, until there was a revisit of the electoral process that took us from dual seats to single seats and one vote per eligible voter. That was way against those that thought they were being well served by the process. So much so that there was representations and lobbies to Whitehall, there was a march to Government House for us just doing the right thing the right way, enfranchising, and including more people in a more democratic way, which is the intent and what was actually done through a legislative process in this honoured hallowed Chamber by way of the Municipality Act that was passed in 2010.

But now there is an era of exploitation to take us back to where those who feel hard done by want to have more of a say and want to have who they want, where they want, doing what they want, and minimising, through a proportional strategic approach, those that have a vested interest as residents of this city which is growing. Because since 1998 there have been a number of residential complexes. So there has been no further widening of the gap of participation.

There has been more an opportunity for just the common man to have the biggest say in the municipality. The infrastructure of this city is really second to none. There are some challenges, there may have been some mistakes made, or some oversights on some of the projects or whatever, but for the most part by successive administrations there has been good things done. Compare us to other municipalities. The manifestation is right in front of us. We walk it, we see it, we live it every day, so what is the real motivation and why retroactive? Has there been something done that they do not agree with because who has had an affirmation from the administration?

*[Inaudible interjection]*

**Mr. Glenn A. Blakeney:** Is it? Is it because there is someone that feels that they should have more vested interests and more of a participatory percentage in proposed developments? Maybe there are people that are at odds. I have heard mutterings, utterances where there have been certain individuals, well-endowed in the community, who do not feel that they have gotten a fair shake. So is there a special interest

going on that is actually driving or motivating the drive toward the kind of amendments we are seeing passed here today?

Just speak the truth. Say what your apprehensions are with the current administration, because that is directly who it is targeting. It is not talking about, *Oh, about the future, we do not know what is going to happen and at least we have a stopgap measure because of statute barring of this particular legislation and the framework. You know, it is the good governance side of it and we would not have to worry about the future. You never have to worry about the future.*

You know, with the grace of God, we are here next week. If something warrants us saying, *You know what? We need another amendment or we need to revoke something*—it can be done way before any catastrophic damage, *per se*. So what is the objective? What is the motivation? Why the contradiction of Government getting out of the way?

Let us roll out the red carpet for invited guests who want to come and do business in the country and then you put in the kind of legislation that, at best, is ambiguous so that a developer or a potential developer has to think a second time because hey, a contract is a contract is a contract. Why do I need to have it explained by an attorney that is going to cost me \$900 an hour to give an opinion whether I should come and invest in the capital municipality of Bermuda? I mean, just the apprehension stops the money!

That is why those that have got the resources hoard when there is uncertainty on Wall Street. It is not that they do not have it. It is not that there is not any money. The people that have it are very discerning with how they spend it, which then forces the Government to stimulate—which means just going to the Treasury and printing more, because those who have got have the prerogative to use or to not use. That is the problem. I have not heard anybody taking a match and putting it to a dollar bill. So where are all the dollar bills that have been produced—where are they? Somebody has them.

So this is the kind of thing that people think about in small ways when big decisions are made. *How does it impact me? How will it impact me?* See, this climate with the kind of disconnect, disenchantment, distrust, discomfort. People do not feel motivated to really be concerned until it really hits them directly.

Like, as I have mentioned previously, certain proposed pieces of legislation or amendments that affected senior citizens and of those receiving financial assistance and others, then they come out or they express their concern—but the little guy does not know what to do. When you get up here as the Attorney General and you talk your *ultra vires* and all the other legalise and terms—the average person, as he quite rightly said, you know, may not understand it. It

is no slight against them. Not everybody is a lawyer. I am not a lawyer! I need the Shawn Crockwell or a Kim Wilson or a Mark Pettingill or . . . we have another lawyer on this side—

*[Inaudible Interjections]*

**An Hon Member:** Michael Scott.

**Mr. Glenn A. Blakeney:** Michael Scott, my good friend. You know, that is why we need these types of people.

You know, I have always wondered why all the Latin, a language that is not even spoken anymore and needs to be interpreted. And then there is literal, there is this and there is that. And then there is the ambiguity where not even judges are sure, so you get three judges over here with an opinion and the other two over here with another opinion. You know? So what kind of chance does the average grassroots person stand? We should be the big guys on the hill really thinking for the little guys. But this legislation is thinking for the big guys who are going to have the lobby anyway.

I do not care who you put in the Corporation. They have to serve business because business is what drives the buoyancy of the city and the country, because most businesses are centralised in our capital city. So any administration that has that responsibility of oversight will be wallowing in folly if they did not serve the business interests of the municipality. Because they would be booted out in a heartbeat! But there has been very little public outcry from anyone on most of the decisions made by the current administration. They have consulted the public on proposed amendments by way of ordinances.

They have explained what the impact could be, the rationale behind any punitive breach or any breach that has a punitive consequence. Not everybody agrees because we all want to get away, we all want to get, you know, a free card for whatever. We do not want to see the traffic warden, you know, walking down the street and then putting a notice on a car for it to be clamped or whatever. So the current administration has served the city relatively well.

So, again, what is the driving motivating factor here and now, today, to target the current administration even so far as to retroactively being able to correct something? Who is it [being] targeted for vicariously through the Corporation—but I think through other individuals who have some stakeholder interests in some fluid things that are going on. I think some of those people (if not all) are of the utmost integrity and have acted in utmost good faith and have done as much as humanly possible in their committed, loyal endeavour to the country to not just get development started, but to get our people back to work.

God only knows the kinds of hurdles they have had to climb and the kinds of impediments they

have had to endure and they are still standing strong. I just hope that justice is served because the innocent should not suffer. It should not be to their chagrin—the little guys. It should not be. To be up here talking all this legalise and all this stuff—get down and dirty with the grassroots and tell them what is going on.

**An Hon. Member:** Mm-hmm.

**Mr. Glenn A. Blakeney:** So they understand from the ground up and not the top down, because we know our people. We know. Right now in this current political and economic and socioeconomic climate, people are not even wanting to think politics or talk politics or hear politics because they believe it is all about the “politrucking” because they are hearing all kinds of diatribes at times from all quarters. They are experiencing consequences, unintended or otherwise—most intended—that are hitting them directly in the pocket. Directly in the pocket! And they are hurting.

We want to engage in blame game, blame game, blame game? Why not explain game, explain game? So that it is understood and so that when a decision is made or a choice by that consumer is made, it is based on well-informed data and information. It is not based on speculation or personality or emotion. That is why I always coin the phrase “honest brokers.” And we here also have to be and I think for the most part, we try to be. But when the politics gets involved because of the special interests that have to be served, that is where we fall off the rails. Because economics rules! Politics do not rule anything! Economics rule.

If political parties are given funding to support their endeavour to be elected, they had better have an ear that is listening to those that have endowed them to accomplish what they have set out to do, based on their set of circumstances relative to their political ideology and how they believe they can best serve the interests of not those that are most able but those that are least able. A government should be judged on those that are the least among us striving to survive. Not those that can do it without government on their own. That is how we should be judged.

Almost all legislation that has come under the OBA has pretty much been directed in the path of those that would be considered the most well-endowed in the community—those that are the haves. Not too much about the have-nots. I have not heard too much about the social programmes. I have not seen any real significant fundamental, earth-shattering proposed legislation that has come before this House from the Government that deals with those social things.

In this municipality, the social context is *really* important because we have a number of communities bordering very close to the municipality, and some that would be considered in the municipality that have some very serious social challenges. Some very seri-

ous social challenges. The current administration has been focused on what would be considered the area that needs the most help where there is a significant number of residences, and that is North Hamilton.

More attention, in my humble opinion (and I stand to be corrected) has been given to North Hamilton than at any other time in the municipality's history under the current administration. Now could that be a problem for some? The waterfront is more important because the trickle-down will get to north of Hamilton sometime next week, next year, next decade. Or will we find the balance and try to stimulate across the board where there is equal, or at least close to equal, attention and priority given to both constituencies—those that are not as well-endowed financially as much as those that are.

I just want to know. I just want to know the answers to some of these questions. I am not criticising anybody. I am just asking questions. Where is the motivation coming from and for whom?

Thank you very much, Madam Deputy Speaker.

*[Timer beeps]*

**The Deputy Speaker:** Thank you, Member.

Are there any other Members that would like to speak?

Thank you. The Chair recognises the Member from constituency 14, Devonshire North West, Mr. G. C. Smith.

You have the floor.

**Mr. Glen Smith:** Thank you. Good evening, Madam Deputy Speaker.

First of all, I need to declare my interest. I was a member of the Corporation of Hamilton. I was elected as a Councillor in 2008 and then there was an election, I believe, in 2010 and then I was elected as Alderman and I subsequently also served as a Deputy Mayor. So I do want to declare that interest, and I did resign from the Corporation of Hamilton in February of 2012, as I knew I would be running as a candidate for the One Bermuda Alliance.

Madam Deputy Speaker, there are a couple of strong points. And actually being in the Corporation you kind of understand why some of the areas of, such as alderman and deputy mayor, are being removed from this legislation, from our Act. The truth of the matter is, and I have served as a councillor and I remember distinctly, a couple of times in actual fact, when there is five councillors and you had an alderman and the five of us would say no we would not agree to a certain particular piece that was being legislated at that time within our board, and then you have an alderman that was not going for you, that person or that alderman had the full vote.

Even though there was five of us, at the end of the day, seven of us all elected by individuals of the

municipality, our vote was not as strong as the alderman's vote. So, to me, being in that area before it is one of the things that need to be removed.

It is also a lot of the best practises that we are seeing in other jurisdictions around the world where there are no longer this aldermen there. The other area that I applaud, and I know that a lot of various different groups that have represented the corporation, is remuneration. I was one that believed that that some deserved money should be paid to people that put time into sitting on these boards. The amount of time and energy that goes in is unreal, in actual fact, to make the city run as well as it runs, to make the parks as beautiful as they are—it all takes time and energy.

At the end of the day, if you want to get cross-representation in regards to people that are going to sit in the council, then you have to remunerate them and remunerate them fairly. So I am fully supportive of that.

One of the areas that has been the big discussion this evening is bringing back the vote for the ratepayer. Well, Madam Deputy Speaker, I certainly agree with that. You know, approximately 95 [per cent] to 96 per cent of the tax that is paid is paid by that ratepayer, which represents about \$8 million worth of taxes (at least it was in my time). I am not sure what it is today. Other jurisdictions around the world are reverting back to what we are doing here this evening. We talked about Adelaide, Sydney, Australia, the Greater London area—

#### POINT OF ORDER

*[Misleading]*

**Mr. E. David Burt:** Point of order, Madam Deputy Speaker.

**The Deputy Speaker:** Please have a seat. Thank you.

**Mr. E. David Burt:** The Honourable Member is misleading the House. The Greater London area does not allow ratepayers to vote in their elections. It is only the tiny City of London.

**The Deputy Speaker:** Thank you.  
Member?

**Mr. Glen Smith:** Thank you for that clarification.

So, when I look at what has been presented this evening, essentially the ratepayer, and if that ratepayer also lives in the city, will be able to vote. So, for example, if I own a shop in the City of Hamilton and I happen to live above that shop. I, as running that business, would have a vote or I could nominate an employee that would have that vote, and also that I live in the city could still retain the vote. So no vote is

being taken away from anybody at all in regard to people living in the city.

Then, you know, we talk about a low turnout. In the 2012 election, there were roughly 687 registered voters. There was only a turnout of 197 people that came out to vote. A 28 per cent turnout. Really? Do we call that a proper turnout of representation of voting? I do not think so.

#### POINT OF CLARIFICATION

**Mr. Walter H. Roban:** Point of clarification.

**The Deputy Speaker:** Please proceed.

**Mr. Walter H. Roban:** Would the Member agree that that being the first election under that franchise, that perhaps the members were not quite familiar since it was the first time they had an opportunity to vote under a universal franchise? That might account for the low turnout. It was their first time.

**The Deputy Speaker:** Please, proceed, Member.

**Mr. Glen Smith:** Thank you.

Madam Deputy Speaker, when it comes to wharfage and demurrage, I fully support that coming back to the Corporation, because at one point I was involved as Chairman of the Infrastructure Committee which oversaw at that time the docks and how they ran. You know, when you look back at the former Government spending \$800,000 on overseas consultants plus local consultants—they said they consulted everybody. But you know what? They did not. At the end of the day, when you look to see what revenue was not captured in regards to demurrage—

#### POINT OF ORDER

**Mr. Walter H. Roban:** Point of order, Madam Deputy Speaker.

**The Deputy Speaker:** Have a seat, please.  
Proceed.

**Mr. Walter H. Roban:** I do raise hesitantly to interrupt the Honourable Member.

The fact of the matter is that an exhaustive process was taken by the previous Government when it came to the reform. I know because I conducted it myself with hundreds of people who were interviewed. Interest groups within the town, individuals that had an interest in a variety of areas were interviewed. That is a part of the public record.

I am sure the Minister responsible for Municipalities can find the work that was done, because it was done with the cooperation of members of the civil service to do an exhaustive survey and interviews with everybody from Sir John Swan to members from the

Association of Bermuda International Companies (ABIC), the Association of Bermuda Insurers & Reinsurers (ABIR), all types of stakeholders were interviewed and were solicited for their views on the reform of the corporation.

**The Deputy Speaker:** Thank you for your input. Member?

**Mr. Glen Smith:** Thank you. That might be the Honourable Member's opinion, but it is certainly not what I remember.

#### POINT OF ORDER

*[Misleading]*

**Mr. Walter H. Roban:** Point of order, Madam Deputy Speaker.

**Mr. Zane J. S. De Silva:** Point of order!

**The Deputy Speaker:** I can only take one point of order at a time.

**Mr. Walter H. Roban:** I will yield.

**The Deputy Speaker:** Thank you.

#### POINT OF ORDER

*[Misleading]*

**Mr. Zane J. S. De Silva:** Thank you, Madam Deputy Speaker.

The Honourable Member who is making a statement is certainly misleading the House and the people of this country. That is a very false statement. I am not going to say it is a lie; it is a very false statement. The Honourable Member would want to get his facts straight.

**The Deputy Speaker:** Thank you, Member.

*[Inaudible interjection]*

**The Deputy Speaker:** Member, continue.

*[Inaudible interjections and crosstalk]*

**The Deputy Speaker:** Member, Member? Thank you.

We will continue and, yes, you did clarify it was your opinion.

Please, proceed.

**Mr. Glen Smith:** Thank you, Madam Deputy Speaker.

*[Inaudible interjections]*

**Mr. Glen Smith:** Madam Deputy Speaker, when I look at the demurrage fees that could have been collected by the Corporation of Hamilton or the Government, we

looked and we had one cruise ship in Hamilton from 2011 season to 2012—

*[Crosstalk]*

**Mr. Glen Smith:** That is almost close to \$600,000 that was not collected by any Government body because that was not in the legislation for anybody to collect. So essentially this cruise ship in Hamilton that was coming in during that time was docking for free and likewise in the Town of St. George's.

I close this evening. I am in full support of the changing of this Act.

Thank you.

*[Desk thumping]*

**The Deputy Speaker:** Thank you. The Chair recognises the Member from constituency 6.

You have the floor.

**Hon. Wayne L. Furbert:** Thank you, Madam Deputy Speaker.

I am not going to be too long. I know I have said that before—

**The Deputy Speaker:** Take your time.

**Hon. Wayne L. Furbert:** But I promise you, I am sure we are all tired.

But let me just make this . . . you have to ask the question, Why are we here? Why are we here after laying an amendment in 2010 and now we are here in 2013 doing something else? Is it in the best interest of the country that the Government would bring such amendments here today? We have to ask that question because . . . why do I say that? We could be back here again in 2017 with this Government making further amendments. We are going back and forth like a ping pong ball. This-that; this-that, because individuals are not happy or satisfied with what they see.

We could be back here, you know. We could be back here. Matter of fact we will be back over there. It is clear. It is clear. The Honourable Member said, *I would not bet on it*. I did not say she would not hold onto Paget, but there are other seats that will fall.

*[Laughter]*

**Hon. Wayne L. Furbert:** So you will be here to see that part unless you are retiring. But the question is, why are we here?

Madam Deputy Speaker, let me ask the question (just one). [Let me] put a question out there. Do you think we would be here if (I will call it) the Gosling Team had won the last election?

**An Hon. Member:** No.

**An Hon. Member:** No, not likely.

**Hon. Wayne L. Furbert:** And if they had given a contract to somebody—

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** Do you think we would be back here?

**An Hon. Member:** No.

**Hon. Wayne L. Furbert:** I do not think so either. So this is not about . . . I mean, they think that the Corporation is run by the Progressive Labour Party. I make it very clear. We do not.

**An Hon. Member:** Never did.

**Hon. Wayne L. Furbert:** We do not!

**An Hon. Member:** Never did.

**Hon. Wayne L. Furbert:** They were duly elected by individuals within that group, and we felt that residents who are enrolled should be able to vote in an election and elect people, because that is the norm around the world, that residents who live within that area would have the right to vote.

So I am saying to the country—speaking to the country . . . and I remember speaking to the Minister when he was in St. George's and I said, *Why do we have to go like this? Why do you have to . . . we made some amendments. It may not have been perfect. You are bringing some further amendments which are not perfect. There are a lot of questions to it. Why on this particular case we could not have gotten together to at least agree on some things going forward?*

They felt that individuals from the business community should have the right to vote and I lost the right to vote when it was changed because I have a property in back of town.

**An Hon. Member:** North Hamilton.

**Hon. Wayne L. Furbert:** North Hamilton. Yes, so property voters would not have the vote so I could not vote.

The Honourable Member, she may have lost the vote, too, I am not sure. But there are other Members who had lost the vote. I understand that. But that was the agreement.

But here we are three years later, the Government . . . and, matter of fact, Madam [Deputy] Speaker, you will recall . . . I mean this House was full of individuals who sat there for 24 hours and standing outside, wanted to bring the House down and bring

the country down because the Progressive Labour Party Government was taking over the Corporation. And, yes, there was a report that was out there that talked about doing certain things, but they never took place.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** It never took place! There are a lot of reports out there that Governments make, but which never take place. Everything is not completely done. So you cannot assume—I guess you can assume—

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** —that the PLP was moving in that direction. It never took place so not necessarily it would have happened. So, we cannot assume that.

Now, if it would have happened, then you could say it. But it did not happen. The Honourable and Learned Attorney General, Pettingill, said that the Government *paid* \$800,000—I asked him to bring that breakdown to this Parliament. But he still has not. Twice I challenged him.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** It was the amount—

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** I will tell you, Honourable Member.

**The Deputy Speaker:** Member, can you speak to the Chair and do not be worried about the side bars?

**Hon. Wayne L. Furbert:** The amount that was allocated was \$800,000—*allocated*.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** Allocated. The amount that was spent, from what I understand, was \$665,000. There is a difference.

*[Inaudible interjections]*

**Hon. Wayne L. Furbert:** All right? We understand the \$665,000. What we are saying is that the Progressive Labour Party did not spend \$800,000 based on what the Attorney General has stood up and proclaimed to the world that the Government did it. And he acts as if he had proof.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** It was allocated, not spent.

*[Inaudible interjections]*

**Hon. Wayne L. Furbert:** So I am saying to the Government, is it in the best interest of the country, the Corporation, that . . . and I think one of the reasons why the Progressive Labour Party did not move totally in that, on the report at that time, because they were listening. They were listening. Now, whether later on some changes would have taken place, we do not know because it did not take place. But they did listen.

My point is the Government, the Progressive Labour Party Government, did less and had some of the largest marches around here that you have ever seen. Everyone—not everyone, but the Chamber, you name them—were all up in arms. All up in arms. And we have not heard one little word from individuals. Chamber, you know the groups.

**An Hon. Member:** The usual suspects.

**Hon. Wayne L. Furbert:** Did not speak! There has been silence on this particular issue. I am saying not necessarily that we got it all right, but it is so important that we do get it right and for the Corporation of Hamilton to feel like there is some stability, because businesses are looking at this.

Why could we not have at least . . . I told the Minister, *Let us get together and talk about it. Let us get together and talk.* Why could we not have had an election the way it is—the resident vote for their representatives and possible where there is amount of two people, maybe make an amendment to the Act where two people are put on by the board from the business community. I do not see anything totally wrong with that.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** I do not see anything totally wrong with that.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** I do not see anything totally wrong with that where a representative from the community is sitting on the board.

But to go through this whole thing and the way they are now talking about taking the vote, to me, it is undemocratic. There is no logic behind it and, again, we could be here again four years from now making amendments—because we will bring amendments.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** We will be bringing amendments to undo it. So as soon as the election, I think the next corporation election is 2017—

**An Hon. Member:** Fifteen.

**Hon. Wayne L. Furbert:** Fifteen. And your election is next year, so we probably can bring it before the election.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** Is that not in the best interest of finding a solution for some of the major decisions? And I have heard our leader many times reach out across the floor and say to them, *We are willing to work with you. We are willing to work with you.*

**An Hon. Member:** That is just lip service.

**Hon. Wayne L. Furbert:** That is not lip service.

*[Inaudible interjection]*

**An Hon. Member:** What about collaboration?

**Hon. Wayne L. Furbert:** Because I believe you. Yes, collaboration. I have heard the Premier talk quite often about collaboration.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** The country is under siege in so many aspects and this is probably one of the greatest times that we can work together. In many aspects. In many aspects.

I understand Ministries and Ministers and, *I have got my part and I am going to hold on to my power, and that Minister does not cross my Ministry, and do not touch this. I am making the decision.* But our leader has always talked about we are working together, and I have never heard a leader talking so much about working together as the Honourable Marc Bean. And it is as if they do not hear it or they maybe do not believe it.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** But I really believe . . . I mean, he said something earlier when the Honourable Member said he is willing to come across the floor, but you have to get your act together first and all understand on one issue. Maybe that issue would have worked out. Maybe we can find some agreement on certain parts. He threw another olive branch out there.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** You heard us this afternoon when we stood up and said, *Okay. We have some amendments. We are going to hold back our amendments.*



*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** We heard what you said. We are going to hold back our amendments.

That is about working because right now people are looking for leadership. They are looking for direction. They are looking for individuals that are not going to continuously fight against each other. I said, as you know, I have not fought a toenail to the Honourable Tourism Minister, this whole . . . practically a whole year because I understand his challenges.

I was in his shoes. I understand those problems. I did not speak on the casinos on the ships and I am not going to reflect on a debate. I did not. I did not object to it. You did not hear me say too much about it but I understood because I had discussions with the former Minister of Transport, the Honourable Derrick Burgess, when the Bill was there, understanding some of the challenges.

So I did not speak up. I did not do it because I understand that some things we have to work together on. It's not about pointing fingers and, you know, talking about some wall coming down at Dellwood [Middle School] and [who] got it wrong. It is not about that. It is about finding solutions going forward, and the Corporation of Hamilton should not be a political football game that whoever wins takes the prize.

It has survived all these years from 1920—something (I believe it is) to now, and we are talking about changing back and forward only because it is about holding on to power. Power and not allowing an entity that was given the power to do what they have to do.

I heard the Attorney General talking about, reflecting on the Good Governance legislation and that they have, because of the Good Governance legislation, that maybe the corporation has breached certain Acts or whatever it is. Well, go to court! We understand that. He has a right to challenge those particular things in court. But when you are talking about sending a message to the world that you can go back two years . . . well, what is stopping [us], when we get back in, [from going] go back 10 years? We have already set precedence. That is a Mickey Mouse jurisdiction.

Nobody goes back and talks about, *I am going to go back and get something that you should not have had because I thought you shouldn't have it.*

Where are we going? Where are we heading in that direction? It is not about that, Madam Deputy Speaker. We are a jurisdiction that has had good governance no matter which party has been in power. We have good understanding. The community understands us. The business community understands us. Governments around the world can trust us—governance goes on. Now we are going to send a message that the Bermuda Government can go back and undo or unwrap something. And by the way, yes,

we unwrapped it, but we can make . . . and yes, we are going to pay some money out. How much?

Madam Deputy Speaker, I do not believe that that is what the country is calling for at this hour. If there was ever a time that we need to find solutions to the problems that we have . . . and if there is a difference between who should be, how a person should be elected, yes, let us get around the table with our leader and others to discuss about a compromise. Instead of going back and forth . . . we win in 2017, they win back 2020, and the Corporation does not know what . . . they might as well say, *Look, I put my hands up, and say, Parliament decide. You make the decision.* After all these years, I do not believe that if the Gosling group was in we would be here today talking about any amendments to any Act.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** It would never have happened.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** Never, never, never, never happen.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** And we believe that is right? Why do we not go back five years when they were in control and change some things back from there?

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** Let us go back some more. Why stop there? Let us go back 400 years and undo some of the problems that we did have.

**An Hon. Member:** And fix it!

*[Inaudible interjections and laughter]*

**Hon. Wayne L. Furbert:** You know that there was . . . the Honourable Members on that side know that land was taken from certain people in this community over the years. Let us go back and undo that! Let us go back and undo Tucker's Town—

*[Inaudible interjections and crosstalk]*

**Hon. Wayne L. Furbert:** You want some justice done. Let us go back there! All our hands go up—probably besides the Honourable Member Michael Dunkley.

**An Hon. Member:** Except Michael Dunkley.

*[Laughter]*

**Hon. Wayne L. Furbert:** And the Honourable Member Grant Gibbons.

**An Hon. Member:** Of course not.

**Hon. Wayne L. Furbert:** Let us go back and open up those beaches around Tucker's Town so people can go out and swim.

**An Hon. Member:** Public beaches!

**Hon. Wayne L. Furbert:** Public beaches—those beaches that belong to the people.

**An Hon. Member:** Yes.

**Hon. Wayne L. Furbert:** I remember once when I was sitting in another room I promised I was going to bring a ferry around the corner by Tucker's Town, drop it in the water there where the high mark is and have some fish fries and peas, rice and chicken.

*[Laughter]*

**Hon. Wayne L. Furbert:** Because the law allows us to go to the high water mark. Maybe we should all do that. Let Michael drive the boat—the Honourable Member Michael Dunkley.

Let us go back! How far do you want to go back to correct some of our problems?

**An Hon. Member:** How far back?

**Hon. Wayne L. Furbert:** The problem only started when the Honourable Members from this new corporation got in?

**An Hon. Member:** Of course it did. Had to.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** And why is it for some reason that when people of certain complexions have things wrong?

*[Inaudible interjections]*

**Hon. Wayne L. Furbert:** When the PLP were in power, because of their complexions something is wrong! There is a corruption.

*[Inaudible interjections]*

**Hon. Wayne L. Furbert:** Now, because the honourable people who are in this Corporation of Hamilton that are a little darker than me, Madam Deputy Speaker, there is corruption. Why do we always have this problem?

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** We have some challenges. We have some challenges, and we are willing to work with the Government. I was just speaking to (and I still call him my good friend), Shawn Crockwell, about you know he is going somewhere at the end of the month. I said, *Man, go here and do this because these are the things we need to work on.* It is about . . . there are people hurting and there are more people hurting now than ever before, now that the Government has cut back certain hours for some of the civil servants.

I would like to bring some amendment to that Bill and say, bring some amendment and say let us put together a committee to look and see what those individuals who have to be knocking off, I think, one day—

**An Hon. Member:** Furloughed.

**Hon. Wayne L. Furbert:** Yes, furloughed.

Get them and see how they are hurting. Young lady told me she hardly had . . . she cannot even pay some of her bills now because there are three members in her household. These are the issues that we should be looking at. But, no, we are going back and talking about the corporation. *Something is wrong with you. You did not get in because those people in back of town voted for you.*

*[Laughter]*

**Hon. Wayne L. Furbert:** Something is wrong with them. Something is wrong with those people back in town! They did not make the right decision.

*[Inaudible interjections]*

**Hon. Wayne L. Furbert:** They are not intelligent! Something is wrong with them.

*[Inaudible interjections and crosstalk]*

**Hon. Wayne L. Furbert:** But only when a certain group within the Corporation can . . . because, because—

**An Hon. Member:** They got the wrong DNA.

*[Laughter and crosstalk]*

**Hon. Wayne L. Furbert:** Madam Deputy Speaker, we understand Parliament is supreme. And I heard the Honourable Member, Glen Smith, over there mumbling under his breath. All right?

We just had a debate on the Tourism Authority and we took away, I am not reflecting, but we felt that it was important that we give up, and now we are sucking in. We are taking in a larger body who has

probably control of larger, more money, than the . . . I mean, for years the Corporation has done quite well. It is only since this group has come into control that something is wrong.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** It is only since them. Only since they have been in charge that something is totally wrong but they have done some good things for the Corporation.

They have had a, I would call, a personal touch. Certain things they have done that you say *These guys are reaching out to just the ordinary people*. All I am saying is that I believe that we could work out some things and get around the table. I remember I said to the Premier once, I said, *Premier, not honour and glory for us, but why don't you bring a motion so that we can all find a way to—I call it a retreat, some Members from the PLP, some Members from the OBA, and maybe some from the business community—lock ourselves in a room for a weekend and then come out with some solutions that we can agree with*. We come out holding hands, *Kumbaya*, and say we agree on one, two, three, four, five.

What is wrong with that? It is different. No, but we want to be combative. This Parliament causes us to have division, this centre line, where we go across each other. But maybe there are individuals out there—not maybe, there are individuals out there—who say that they do want us to get together sometimes. What I would like is if we can say . . . I tell you the stocks would go up in a hurry, if we can find some things together.

I have to tell you, I have heard over and over, our leader talk about, *Let's do it. Let's do it. Let's do it*.

Madam Deputy Speaker, how much time do I have left?

*[Crosstalk]*

**Hon. Wayne L. Furbert:** Ten minutes.

I find it quite extraordinary that we want to go back to what . . . matter of fact, it is probably. The election is probably worse than it was before. The way the method of picking individuals—moving away from deputy mayor and moving this person and moving around.

The Corporation of Hamilton and the Corporation of St. George's are different also. You could have handled—it is different. The majority of people in St. George's are residents. There are not too many people in the St. George's area that are business people, so you would always have the residents outnumbering significantly that group that we are putting in. So maybe the Corporations of Hamilton and St. George's could be different. But these ideas we are putting before the Minister. He had a one track mind. A one track mind—I am going to take that thing from those

*guys, who don't know what they are doing, I am going to take it away from them and make sure that they are—and then I am going to go back two years.*

I am concerned because that is what we are fighting over. We are fighting over the rights for individuals to govern within the corporation, one; two, the control over who controls that waterfront. Nothing more, nothing less.

*[Inaudible interjection]*

**Hon. Wayne L. Furbert:** There are no other reasons. But these things could have been worked out around the table with all of us, finding some reason.

Now we ask the Government, How much do you think the arbitration is going to be? I have heard millions of dollars! Millions! If I was a developer I would walk away and say, *Thank you for my \$40 million. Goodbye. Goodnight*. You think the taxpayer wants to pay out all that money? Yes, we understand that the arbitration will be all these things. We understand that. But as lawyers know—lawyers have different opinions. I heard the Honourable and Learned Attorney General stand on his feet just now, first thing, we are not in court. We are not arguing, but yet he started arguing about different things and legal opinions.

We have a responsibility, Madam Deputy Speaker, to make sure that this country works. And, yes, we will not always agree on everything but there are some basic principles, and I hope that when we get back in in the next couple of years that we abide by what we are saying now, that we are going to reach out to the Opposition and make some things and move this country forward.

We are too small. Everything, I mean, we really have not beat up on the Government much this year on most issues. Because most of the programmes were put forward by us and carried out by us anyway. So we are willing to work with the Government. But this particular one, I am asking the Government to rise and report progress. Just on this one particular issue, and stretch out by faith and say like my honourable good friend, Shawn Crockwell says, *We are willing to meet with you*. But as my leader said, *Get all your people to agree first. Stand up in front of that camera for us and say I do, I do. And then we will come and say, Kumbaya, and we will sing with you, too*.

*[Inaudible interjections and laughter]*

**Hon. Wayne L. Furbert:** So, my honourable friend, if you can do that, then bring that. Sign it, put it on the [Table] of the House. And I want everybody to sign it by their blood and I will say, *Okay, you may even have me, Shawn*. You may even have me do that one. I am sorry, not Shawn—the Honourable Member, Shawn Crockwell.

Because we want to move forward. It is not a matter of fact *if* we are there, because we know we are getting back there, so that is not an issue. That is not an issue. This is going to be a short term for them, one term. Making it harder for them—

*[Inaudible interjections]*

**Hon. Wayne L. Furbert:** Yes. And a week after and the Minister, whoever the Minister is going to be, well, that is going to reverse.

Madam Deputy Speaker, what my message is basically from here is that I believe that the Minister could have worked out some things better by incorporating the Opposition in a room to find solutions or concerns that they may have with the corporation so we do not have to be doing this year after year. This corporation has worked hard—one of the hardest working corporations I have seen which has, and I say, just a touch for the common man, which I think has been missing all these years. I think that is what is different.

So we are going to be fighting after this thing passes and we know what we are fighting over. Over a contract that sends the wrong message to the business community—that will send the wrong message to the business community, and I do not think it is right.

Thank you, Madam Deputy Speaker.

*[Desk thumping]*

**The Deputy Speaker:** Thank you. The Chair recognises the Deputy Opposition Leader.

You have the floor, Honourable Burgess.

**Mr. Derrick V. Burgess, Sr.:** Thank you, Madam Deputy Speaker.

What is the rush on this Bill? Why? I mean, this is not critical. What is the rush? There are so many other things that the Government should rush to assist the people. They have disregarded that.

We have many . . . all of the government workers have received pay decreases in the last couple of days and they need assistance. There is no rush to get the retailers to put a control on the prices of food. There is no rush to get BELCO to bring their rates down. There is no rush for the health insurance—that has increased by 20 per cent. You know, and there is no rush to go to the banks and say, *Look, you guys need to lower your interest rates so people can pay their mortgages*. No rush there! Those are the critical things that we should be addressing in this House!

**An Hon. Member:** Amen!

**Mr. Derrick V. Burgess, Sr.:** That is what we should be really . . . in these difficult times we need to be

concentrating on the people, because I would say what I have seen from the present administration of the Corporation of Hamilton—they are doing a great job, despite the history of the previous. They are doing a great job. Yet everybody wants to investigate them and box them in a report like there is some corruption going on out there.

As has been said before, every time the complexion of the administration changes in this country, there is corruption.

**An Hon Member:** Yes.

**Mr. Derrick V. Burgess, Sr.:** It really annoys me because I seem to think that everybody is honourable. But when it comes to us, you are either incompetent or you are corrupt.

Mr. Speaker, you know, the previous administration of the Hamilton Corporation, they moved \$1 million and put it in a trust. They removed all the assets to put it under trust because they anticipated we were coming to take over. But now, you know, it is different. I mean, anybody that has two eyes that could see, particularly when we brought that Bill here some years ago.

I will never forget. I guess the Lord spoke to me that day and told me to go to my office for lunch early.

*[Laughter]*

**Mr. Derrick V. Burgess, Sr.:** Well, I went to my office. And I happened to look out of the window. I saw Minister Zane De Silva in his car with his wife and son. And the way he was harassed . . . thank God for Zane, because it would not have . . . not me. They are not going to do that to me. I am telling you. I am from Devil's Hole. That is not even going to happen to me. I will tell you right now. Because that is when the Holy Spirit comes out on me.

*[Laughter, desk thumping and general uproar]*

**Mr. Derrick V. Burgess, Sr.:** I can tell you right now. Straight up! You know when they talked about Jesus in the temple, he turned over the tables? Did you think he said, *Excuse me. I am going to turn over this table*. He did not say that. He turned those tables over! Like he was from Devil's Hole.

But let me say this here. To take, to try to undo something that happened in January 2012, to undo, it is criminal. Because if you want to undo some things . . . and I am okay with that, right? Let us [undo] some injustices that happened to the people before that. Let us undo that. Let us not just pick this particular project.

And I do not want to go back there, because I believe that most people in this country, in the world, want to see things right. But there are a few that

strayed. And that is why you have the devil. God's people, [and] people going to hell. Right? And I guess that is why it is. And nobody wants that. God wants to save everybody. But people practice that . . . they do not want that. They do not want to be saved. And some do not believe there is no . . . after death, that is it. That is the end. And that is the way some people live. Because you have got to pay for this here.

Just like you can try to take the contract that was given to a contractor via this administration, the Corporation of Hamilton. They are trying to take it from him. Because he happens to look like me and he will be in charge? I do not know. I hate to think that. But what other alternative do I have, for anybody to think? They do not do it to anybody else. Why do it to this fellow? He is competent. He has got the backing. We need a hotel there. He has got the support of the administration of the Hamilton Corporation. So why do you want to undo that? What you are really telling the Hamilton Corporation right now, the administration, is that, *What you did was wrong, and everything you have done there, we're going to take from you. We're going to correct it, because you were wrong, you were incompetent. Obviously, you were corrupt.* That is what they are saying! That is the message I get.

I hate . . . You know, every day seems like I am reminded of who I am and what I am. And I am judged. But, you know, I say to those who judge me, *Do not judge me if you haven't walked in my footsteps, or you haven't come from where I came from.* I am not going to judge anyone else. But I am going to call a spade a spade when I see it.

But, Madam Deputy Speaker, this is unjust. And nobody is protesting. I mean, the protest that we had, it was almost violent. I mean, in fact, I saw it. They had his car up and down while his wife and son were in the car. I remember looking out of my window when he drove out and came to the stop for pedestrians. One person ran right up to the car on the side his wife was in.

**An Hon. Member:** And kicked it.

**Mr. Derrick V. Burgess, Sr.:** I do not want to say what they did.

**An Hon. Member:** They kicked the car!

**Mr. Derrick V. Burgess, Sr.:** Why did they do that? That is not right.

**An Hon. Member:** I saw it myself.

**Mr. Derrick V. Burgess, Sr.:** And I am going to tell you, Madam Deputy Speaker, this is wrong. Because if you try to take from what has been done already, it is going to cost the taxpayer a lot of money, lots of money! And because what happens, because somebody does not like who has got the contract, who has

got this here and who gave the contract . . . I have got to go back there. I do not mind if you want to put something in place and you want to go forward. But that, the administration of the Hamilton Corporation, was democratically elected to serve. And I think they are doing a great job. They listen.

Not everything they do, or not everything everybody does we agree with. They are doing a great job, as Trevor Moniz has said, the Honourable Member Trevor Moniz. He is agreeing with me.

**Hon. Trevor G. Moniz:** Madam Deputy Speaker, we cannot allow any more lies here tonight. I asked him to repeat his statement!

*[Inaudible interjections and general uproar]*

**The Deputy Speaker:** Ah! Ah! Ah! That is not Parliamentary language!

**Hon. Trevor G. Moniz:** No, but it was an untruth; he knew it is untrue. I asked him to repeat his statement.

**Mr. Derrick V. Burgess, Sr.:** I would ask, Madam Deputy Speaker, that the Honourable Member retract that statement, please. It is un-Parliamentary.

*[Crosstalk]*

**The Deputy Speaker:** Please, proceed.  
That was un-Parliamentary.

**Mr. Derrick V. Burgess, Sr.:** Will you ask him to retract the statement, please?

**The Deputy Speaker:** By all means.  
Minister, would you like to retract that un-Parliamentary statement?

**Hon. Trevor G. Moniz:** It was an untrue statement, which he knew to be false. But I will withdraw the word "lie."

**The Deputy Speaker:** Thank you.  
Member?

**Mr. Derrick V. Burgess, Sr.:** That is honourable of you, Trevor. Next time when you are out there elucidating, well, you need to make sure I clearly hear what you are saying. Because I took it that you were supporting me.

*[Inaudible interjections and laughter]*

**Mr. Derrick V. Burgess, Sr.:** You know, because you are a nice fellow, you know.

So, again, Madam Deputy Speaker, we had a Member that sits on that side of the House that was a member of the former administration. And I think it